

(Mount Clipping in Space Below)

## Beacon Press--it has a tradition of taking risks

By Joe Pilati  
Globe Staff

"Bombshells" are one thing — most publishing houses try to issue them regularly — but telephoned bomb threats are quite another.

The Unitarian-Universalist Assn. (UUA), which owns Beacon Press, received one last Wednesday afternoon, moments after Gobin Stair, director of the press, began an interview with *The Globe*. Beacon and the UUA share three floors at 25 Beacon st., two blocks from the Massachusetts State House.

The interview resumed at the Parker House coffee shop after Stair presided over the evacuation of the building. Police investigated and found nothing.

"The fellow who called sounded very calm and serious," Stair said. "Apparently he was unhappy about the sex education series we've published for use in junior high schools."

That series, a "multimedia curriculum kit" including recordings and filmstrips as well as printed materials, was originally designed for use in weekly religion classes at Unitarian churches. Stair described it as both "comprehensive" and "explicit," and said it has been well

received in public schools as well as denominational settings.

"There's plenty of conservative, tense, emotional reaction," he noted, "but the fact that this course is being used is an illustration of the change that's happening."

Since it published its first abolitionist tracts in 1854, hardly a year has passed for Beacon without involvement in significant publishing controversies.

"We're in business to take the risks that produce the original books," Stair said. And although commercial considerations are always secondary in Beacon's decision-making, he points out that the UUA "expects us to break even, and we do."

Beacon's decision this year to publish the "Senator Gravel edition" of the Pentagon study on US involvement in Vietnam came only after several academic and commercial presses deemed the work "either too hot to handle or not likely to be profitable," Stair said. "We didn't move until we were sure no one else was going to."

According to Stair, "Simon and Schuster and Harper should have done it, but the abridged version published by the (New York) Times and Bantam had glutted the stores and, they seemed to feel, destroyed the market."

"Then it appeared MIT Press would publish it and I breathed a sigh of relief. I thought to myself, thank heavens we're off the hook. But MIT changed its mind."

Beacon's edition of the "purloined papers" was prepared for publication in "near-record time," Stair said. "Our involvement started in the beginning of August and we had bound copies by mid-September."

Stair admitted that "even within Beacon, there were several people who didn't want to take the risks of publishing the Papers . . . but the spotlight was on (the Papers) and they had to be available for sensible, informed use by scholars and by the American people."

One risk became apparent in November, when the FBI subpoenaed bank records for Beacon and the UUA in a move apparently connected with the Federal government's attempt to prosecute Dr. Daniel Ellsberg.

"As director of the press," Stair said, "I was quite anxious to resist this inspection. It's wrong enough to investigate the records of a publishing house, but it's emphatically wrong for the government to be snooping in the records of a religious society."

Mr. Tolson \_\_\_\_\_  
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Mr. Rosen \_\_\_\_\_  
Mr. Mohr \_\_\_\_\_  
Mr. Bishop \_\_\_\_\_  
Mr. Miller \_\_\_\_\_  
Mr. Callahan \_\_\_\_\_  
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Mr. Ponder \_\_\_\_\_  
Mr. Bates \_\_\_\_\_  
Mr. Waikart \_\_\_\_\_  
Mr. Walters \_\_\_\_\_  
Mr. Soyars \_\_\_\_\_  
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Miss Holmes \_\_\_\_\_  
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(Indicate page, name of newspaper, city and state.)

5 THE BOSTON GLOBE  
BOSTON, MASS.

THE BOSTON HERALD  
TRAVELER  
BOSTON, MASS.

THE BOSTON RECORD  
AMERICAN  
BOSTON, MASS.

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Edition: Sunday  
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Editor: Thomas Winship  
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Rodberg subsequently traveled to Boston with Gravel's copy of the papers and arranged for publication, first by the MIT Press and later, when that fell through, by Beacon, the non-profit publishing arm of the Unitarian-Universalist Association.

He was subpoenaed by the grand jury in 1971 for the murder of John F. Kennedy. He was with the Justice Department in 1963 when the Warren Commission was formed. He was a member of the Kennedy Library Board. He was a member of the Kennedy Library Board. He was a member of the Kennedy Library Board.

he said sales of the four volumes of the Papers already published — \$45 the set in cloth, \$20 in paper

— “have already nearly paid our out-of-pocket expenses,” and a fifth volume containing commentaries and an index will appear in the spring.

Other Beacon brouhahas over the last two decades included the following:

— Publication of four of the first five critical studies of the late Sen. Joseph McCarthy (R-Wis.), his temperament and tactics in the mid-1950s, when even fellow politicians who privately opposed McCarthy were reluctant to attack him publicly.

— Release of “The Permissible Lie,” a no-holds-barred expose of the advertising industry, after its original publisher (Funk & Wagnalls, a subsidiary of Reader’s Digest) first accepted the manuscript, then ordered it dropped.

— Incurring the wrath of the Kennedy family with “Kennedy Campaigning,” in which Boston University Prof. Murray B. Levin argued that Edward Kennedy violated campaign expenditure laws during his 1962 Senate race. “Another house had given Dr. Levin an advance but said they’d publish only if the Kennedys gave their approval. The family put a great deal of pressure on us not to publish it,” Stair said.

— The introduction to a wide audience of numerous authors whose relative obscurity when Beacon first published them was soon transformed into acclaim, including James Baldwin (“Notes of a Native Son”), Marshall McLuhan (“The Mechanical Bride”), Herbert Marcuse (“One Dimensional Man”) and Kenneth Clark (“Prejudice and Your Child”).

The publishing trend which most disturbs Stair is “the corporate mentality” engendered by mergers and assimilation into conglomerates. “The bigger presses are getting bigger and the smaller ones are disappearing,” he said.

With commercial houses scrambling for “sure best-sellers” and university presses most concerned with “getting research on the record,” Stair believes denominational publishers are striving to promote controversial works and “fill the gap left by the others.”

He said Westminster (owned by the Methodists), Abington (Presbyterians, Sheed and Ward (Roman Catholics) and other houses, as well as Beacon, have “come a long way since the days when they published mostly theological material.”

Last year, he said, Beacon derived 75 percent of its income from paperbacks. “We spend a lot of time finding out what other houses are doing in terms of sales, promotion and manufacturing. One of the things we’re proudest of is that while we are a religious publishing house and we are nonprofit, we are operating as professionally as anyone in the country.”



GOBIN STAIR  
... fighting corporate man



# Legal Maneuvers Delay Gravel-Ellsberg

By ROBERT REINHOLD

Special to The New York Times

BOSTON, Jan. 18—The Federal grand jury investigation into the release and publication of the Pentagon Papers became bogged down again today in a tangle of new legal maneuvers by four recalcitrant witnesses and by Senator Mike Gravel and Dr. Daniel Ellsberg.

In separate actions, Federal District Judge Anthony Julius quashed the subpoenas of three witnesses, at least temporarily, another witness testified but refused to answer any substantive questions, and lawyers for Senator Gravel announced that they would appeal to the Supreme Court to prevent the jury from looking into the publication last summer.

At the end of the court day, an attorney for Dr. Ellsberg, who has said he gave the study to the press, obtained a temporary stay of the whole proceeding from Chief Judge Bailey Aldrich of the Court of Appeals for the First Circuit. The stay was to allow the court to consider Dr. Ellsberg's contention that the Boston grand jury might be illegally in trial on conspiracy charges in Los Angeles.

**Early Indictments Doubtful**

It all means at least another week's delay in the investigation, which has dragged on inconclusively for nearly six months. It is understood that the jury is looking into the activities of Dr. Ellsberg and Bill Sheehan of The New York Times, whose reporting led to a series of articles on the papers.

Warren P. Reese, one of the government attorneys conducting the inquiry, indicated today that it would be "extravagant" to think that indictments were imminent in the case.

The three witnesses who obtained reprieves from testifying are Prof. Noam Chomsky of the Massachusetts Institute of Technology, Prof. Richard A. Falk of Princeton and Ralph Abner of the Institute for Policy Studies in Washington. All three have resisted testifying on the ground that the Government may have illegally tapped their telephones. The Government attorneys have asked such surveillance, but Judge Julian ruled the denial sufficient ordered the sub-

poenas quashed and sent the matter back to another Federal judge who had quashed previous similar subpoenas.

The witness who testified was Prof. Samuel Popkin of Harvard. He had been called previously and when he refused to answer questions and been offered immunity against self-incrimination. Today he refused again, saying that he was not

sure if the previous immunity still applied.

In Senator Gravel's action, the Court of Appeals denied his motion for reconsideration of its ruling of Jan. 7. At that time the court issued a protective order barring testimony about his activities surrounding a midnight meeting of a Senate subcommittee on June 29 at which he read portions of a copy of the Pentagon Papers. Under the principle of legislative immunity, the court also protected one of the Senator's aides, Dr. Leonard S. Rodberg. Today, the Senator's attorneys sought to extend the protection to attempts by Senator Gravel and his aides to republish the papers.

The papers were eventually printed by the Beacon Press, publishing arm of the Unitarian Church.

In separate arguments, Dr. Ellsberg's lawyer, Charles R. Nesson of Harvard, contended that there was an overlap in purpose between the Boston inquiry and the indictment in Los Angeles since the central subject in both matters was Dr. Ellsberg and his alleged dissemination of the Pentagon papers.

Mr. Nesson argued that there was danger that the Boston proceeding, which is secret, would produce evidence to be used in the pending indictment—an action prohibited by law. He asked Judge Julian to bar questions asking witnesses whether Dr. Ellsberg had communicated to them or to others documents relating to national defense.

When Judge Julian denied the request, Mr. Nesson appealed to Judge Aldrich. Mr. Reese countered in a hearing that there was no intention to use the Boston jury for the Los Angeles case and suggested that the Government was looking into two separate conspiracies. The judge ordered a stay of all testimony until all three appeals judges considered the matter.

## Inquiry Another Week

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The New York Times 43  
The Daily World \_\_\_\_\_  
The New Leader \_\_\_\_\_  
The Wall Street Journal \_\_\_\_\_  
The National Observer \_\_\_\_\_  
People's World \_\_\_\_\_

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# Ellsberg Indicted Again in Pentagon Case

## Russo Is Also Charged— Former Saigon Envoy Called Co-Conspirator

By STEVEN V. ROBERTS

Special to The New York Times

LOS ANGELES, Dec. 30—Dr.

Daniel Ellsberg was indicted by a Federal grand jury again today, on 12 criminal charges, including conspiracy, for releasing the controversial Pentagon papers to the news media.

Anthony J. Russo Jr., a former colleague of Dr. Ellsberg at the Rand Corporation, was indicted on four counts, including conspiracy. Both defendants were ordered to appear here next Tuesday for arraignment.

In New York, Dr. Ellsberg said that the charges against him were "false" and that he was not aware of having "violated any criminal statutes."

### Charges More Severe

The new charges against Dr. Ellsberg, which also include theft of Government property and violation of espionage statutes, are considerably more severe than those leveled against him by the same grand jury last July.

At that time, Dr. Ellsberg, now a research associate at the Massachusetts Institute of Technology, was charged on two counts of converting Government property to his own use and illegally possessing Government documents.

Lawyers here said a conspiracy charge would be more difficult for the defense to answer. They said the conspiracy charge had become a favorite weapon of the Justice Department because it was often easier to prove than other criminal charges.

Mr. Russo, a 35-year-old economist and engineer, had not been indicted in the case before. But he spent 47 days in jail for contempt last fall after refusing to testify before the grand jury.

The 25-page indictment, which was released here and in Washington this afternoon, also named two as co-conspirators—Miss Lynda Sinay, a Los Angeles advertising woman, and Vu Van Thal, a former South Vietnamese Ambassador

to the United States. Neither was indicted.

A grand jury is continuing to meet in Boston and has called more witnesses for Jan. 18. That investigation has been concentrating on how The New York Times and other media received and published the Pentagon Papers.

It was widely assumed, because of the people summoned to testify, that the Boston investigation was aimed at persons who helped Dr. Ellsberg distribute the documents or who had access to them before they became public.

This aroused charges of a "fishing expedition" into the antiwar movement and caused deep unease in the academic community, where many of the subpoenas landed.

Proceedings have been halted in Boston partly because several potential witnesses, including Prof. Richard Falk of Princeton and Prof. Noam Chomsky of M.I.T., refused to testify until the Government indicated whether they had been subject to illegal wiretaps. The Government recently filed affidavits asserting that neither man had been wiretapped.

One of the main subjects of the inquiry in Boston has been Neil Sheehan, The Times correspondent who obtained the copy of the Pentagon papers that appeared in The Times. The New York Times has refused to comment on where its copy of the papers was obtained.

### Copying of Documents

The grand jury here has focused on how Dr. Ellsberg copied the documents while he was employed by the Rand Corporation, a research company in nearby Santa Monica. Rand, which does considerable work for the Defense Department, had two copies of the study, on which Dr. Ellsberg worked while he was a Rand employee.

Both Dr. Ellsberg and Mr. Russo have admitted their roles in making the secret Pentagon study of the Vietnam war available to the public. Both have argued that releasing the papers was promoting the country's best interests.

Mr. Russo appeared in United States District Court here this afternoon to appeal the bail set for him. When it approved the indictments yesterday, the grand jury set a \$100,000 corporate bond for Mr. Russo, which meant that he would have to put up \$10,000 in cash.

After hearing all arguments, Judge Harry Pregerson ordered Mr. Russo's bail reduced to a \$50,000 personal recognizance bond, which meant that the defendant had to put up no cash.

During the hearing, Mr. Russo wore his long, thinning hair in a small bun at the back of his neck. He testified that he has not been able to work since

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The New Leader \_\_\_\_\_  
The Wall Street Journal \_\_\_\_\_  
The National Observer \_\_\_\_\_  
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being called as a witness last June and was now "virtually penniless." When asked about his intent to appear for trial, Mr. Russo said he was "looking forward" to it.

"I am feeling very good today," he said in a husky voice, "because I will have a chance to appear in court. Make no mistake—I will appear."

The sealed indictment was filed yesterday afternoon here in Los Angeles and reporters in Washington were called to the Justice Department during the evening. They were informed of the indictment's contents but were prohibited from telling anyone, apparently because the indictment had not been officially unsealed.

#### Unsealed by Judge

The indictment was unsealed by a Federal judge here this morning. The indictments were originally sealed, according to the Justice Department, to give agents a chance to arrest Mr. Russo. When informed of the charges against him today, Mr. Russo appeared voluntarily.

The first count of the lengthy indictment charged that between March 1, 1969, and Sept. 30, 1970, the defendants had conspired against the Federal Government for the following purpose: "Obtain and caused to be obtained, classified Government documents relating to the national defense, from Rand Corporation, Santa Monica, Calif., and Washington, D. C., and from other sources. The documents would be communicated, delivered and transmitted to defendants and others, none of whom would be authorized to receive them."

The next six counts involve specific acts of stealing, concealing and receiving stolen Government property, including nine volumes of the 38-volume Pentagon papers, a 1968 memorandum from the Chairman of the Joint Chiefs of Staff about Vietnam, and a case study of the 1945 Geneva conference on Indochina.

#### Possession and Reception

The final eight counts involve unauthorized possession and reception of these documents, in violation of three sections of the national espionage laws.

Miss Sinay had previously told the grand jury that she had received \$150 from Dr. Ellsberg for use of a Xerox machine she had rented. She was alleged in the indictment to have had unauthorized possession of one volume of the

Pentagon study. Mr. Thai, the former South Vietnamese Ambassador, was also alleged to have had possession of one volume.

Arguments on motions in the original Ellsberg case had been set for next Tuesday, but lawyers following the case said they believed some of the arguments would now be rendered moot.

"It seems like some wasted effort to me," said David R. Nissen, the Assistant United States Attorney in charge of the Government's case. "But my time has been wasted, too."

The Pentagon Papers, a collection of Defense Department documents about the origin and planning of the United States involvement in war in Indochina, first appeared in The New York Times on June 13.

The papers, including a 3,000-page analysis, to which 4,000 pages of official documents were appended, were commissioned by Secretary of Defense Robert S. McNamara. They covered the Administrations of four Presidents, showing the American involvement in Southeast Asia from World War II to mid-1968.

At that point in 1968, President Johnson set a limit on further American military commitments in Indochina and revealed his intention to retire. The Paris peace talks commenced.

The publication of portions of the papers in The Times, and subsequently in other newspapers, touched off a national debate on the role of the American press vis-à-vis considerations of national security.

#### Court Freed Newspapers

The issue was resolved in part on July 1 when the Supreme Court, by a vote of 6 to 3, freed The Times and The Washington Post to resume publication of the secret papers.

The Government had contended that publication of documents drawn from the Pentagon study would cause "irreparable injury to the defense of the United States," and had obtained court injunctions forcing the newspapers to suspend publication of the documents.

The Times started publishing a series of articles based on the Pentagon papers on Sunday, June 13, 1971. After the first three daily installments, the Justice Department obtained a temporary restraining order

against further publication.

The issue was then fought through the courts for 15 days until the Supreme Court ruling that held that, in this particular case, the right to a free press under the First Amendment to the Constitution overrode any subsidiary legal considerations that would block publication.

However, the Court did not make a general ruling that could be applied to similar cases in the future.



Associated Press

Miss Lynda Sinay, who was termed a co-conspirator, but was not indicted.



The New York Times/John Soto

**Dr. and Mrs. Daniel Ellsberg here yesterday afternoon**



Associated Press

**Anthony J. Russo Jr. on his way to surrender in Los Angeles yesterday.**



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December, 1971

# Anthony Russo: I wanted access to RAND so I could expose it.

Text by Robert Blair Kaiser  
Photography by Harry Cohn, Jr.

Why should anyone be surprised when Anthony Joseph Russo swaggers into Thomas Hayden's class on the Pentagon Papers at Immaculate Heart College in Los Angeles? Without Russo, there might be no course on the Pentagon Papers, or even, as far as President Nixon and Henry Kissinger are concerned, any Pentagon Papers at all. But one of the young men in the class asks Russo, first off, almost before Russo has time to remove his wide brimmed, black, imitation Borsalino and set it down on the desk: "Hey, I'm not exactly sure who you are or what you've done."

It is clear from the deferential attitude of Hayden, a member of the Students For a Democratic Society and one of the biggest of the big guns in the Movement, that Russo is somebody important and that's good enough for Russo. He smiles indulgently, not unkindly, able to handle this kid who doesn't know who Russo is. He takes his gray tweed jacket and hangs it neatly over the back of a chair and says, in a quiet Virginia drawl, "It's very simple. I took public responsibility with Daniel Ellsberg for making the Pentagon Papers available. The FBI picked up on me June 19 and never let go. Seven times they threatened me with jail. Six times I got away. On the seventh time, they got me."

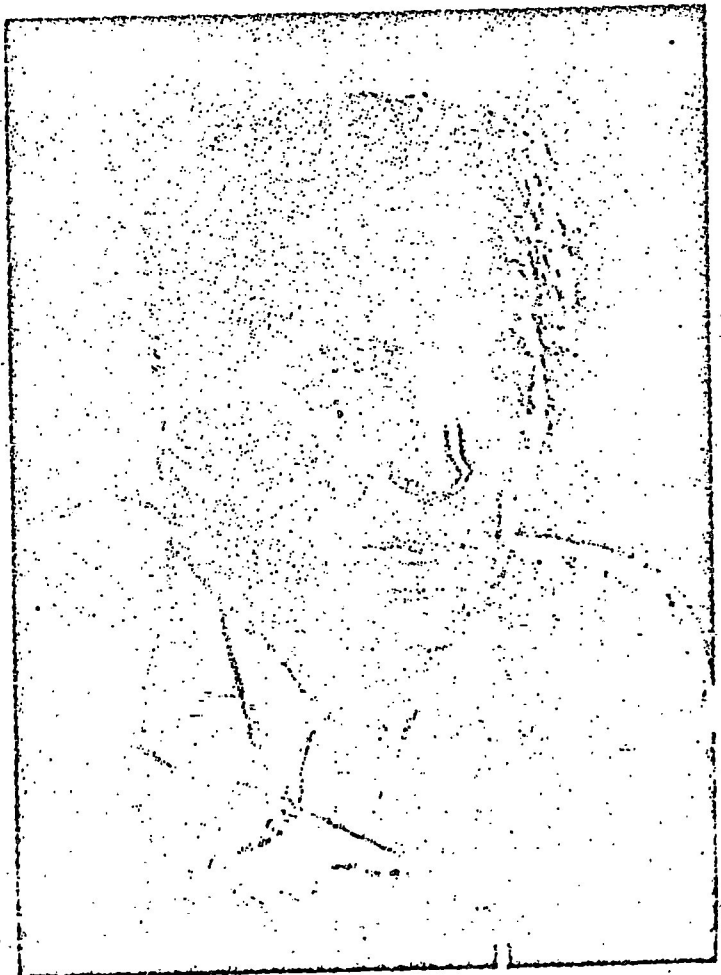
They got him all right. They finally gave him his choice of collaborating with the Justice Department or going to jail. "For me," said Russo when they took him in, "that is no choice. I would rather tell my story openly to the American people free of the compulsion of grand jury subpoenas and contempt citations and not as a tool of the prosecution. Then, if I am sent to jail, it will not be for committing a crime against society, but for advocating honesty and peace."

They first put Russo in the "bullpen" of L.A.'s New County Jail. Russo said it was "a gigantic public urinal where you got in line for three hours to use one of the pay phones there and for supper you got moldy old fifty-year-old baloney sandwiches with nothing on 'em. . . ."

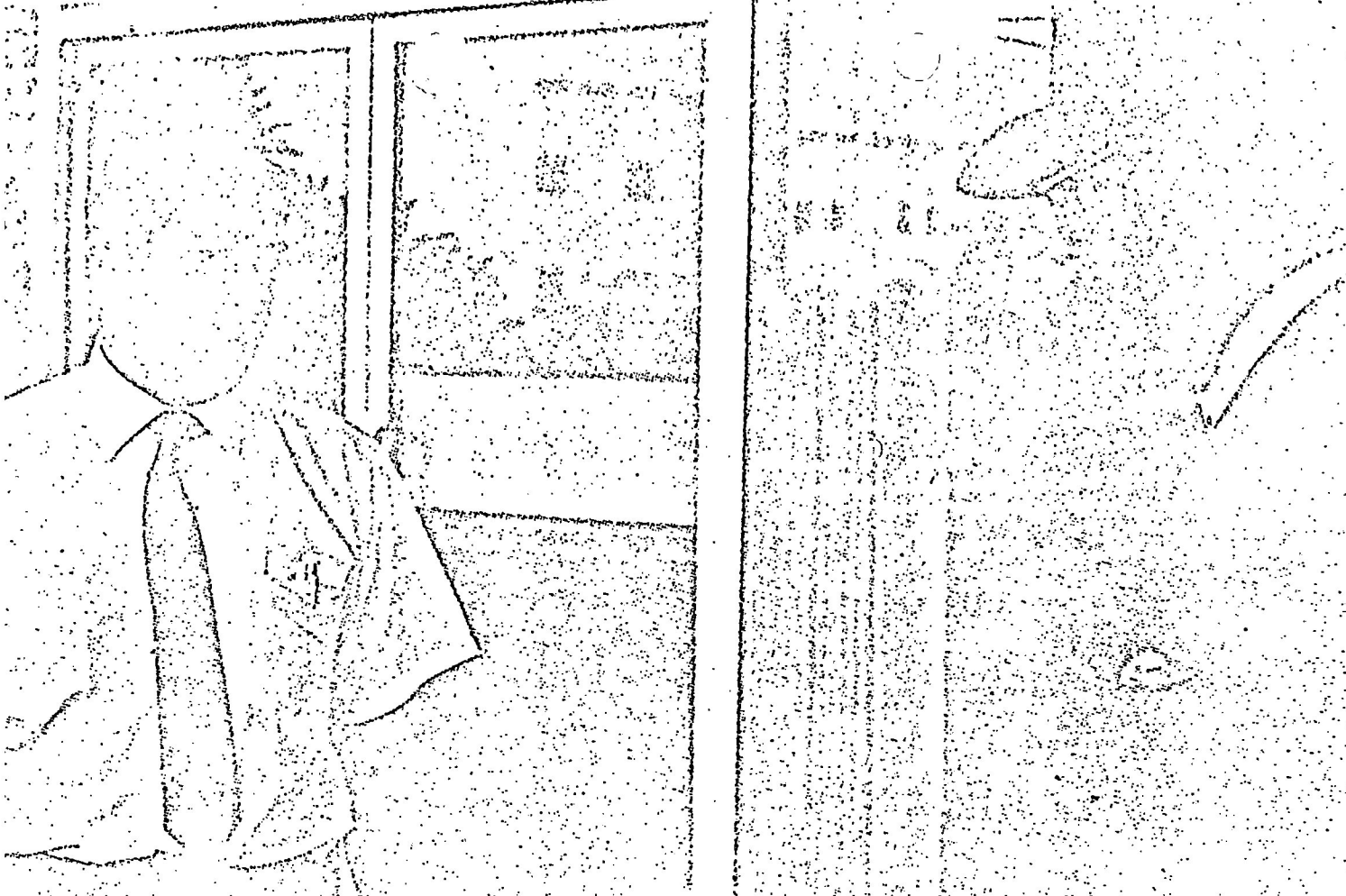
Russo (left) and his partner Ellsberg released the Pentagon Papers. Russo: "The FBI picked up on me June 19 and never let go. Seven times they threatened me with jail. Six times I got away."

Russo gave the booking officer in the bullpen some lip when they took his reading glasses away from him and they clapped him in chains and threw him in a "high security cell" for 13 hours.

He didn't make a model prisoner. From his security cell, he gave speeches to the guards about Adolf Eichmann and he demanded his yet unused right to make his one phone call and he embarrassed one higher official who wasn't wearing a uniform by crying out, "Hey, there, you with the striped tie!" There and then, Russo got an insight: officials do their thing better if they wear uniforms, wear nothing personal. Then their job is just







RAND security guard: "Haven't you caused enough trouble already, Tony?" Russo (opposite) with RAND's secret-document pulverizer.

a job, and personal feelings have nothing to do with it.

From downtown, the U.S. Marshal took Russo to a prison at Terminal Island—TI—for 40 days and 40 nights. He spent some of that time in solitary because he refused to have his hair cut. He kept a prison journal. "Prison is the ultimate bureaucracy," he wrote. "They control everything you do. I was taken before an adjustment committee. They said I was misbehaving and they beat me up and they said I had to go before this committee. I couldn't take my notes with me. I couldn't have a lawyer. So I said I wouldn't go.

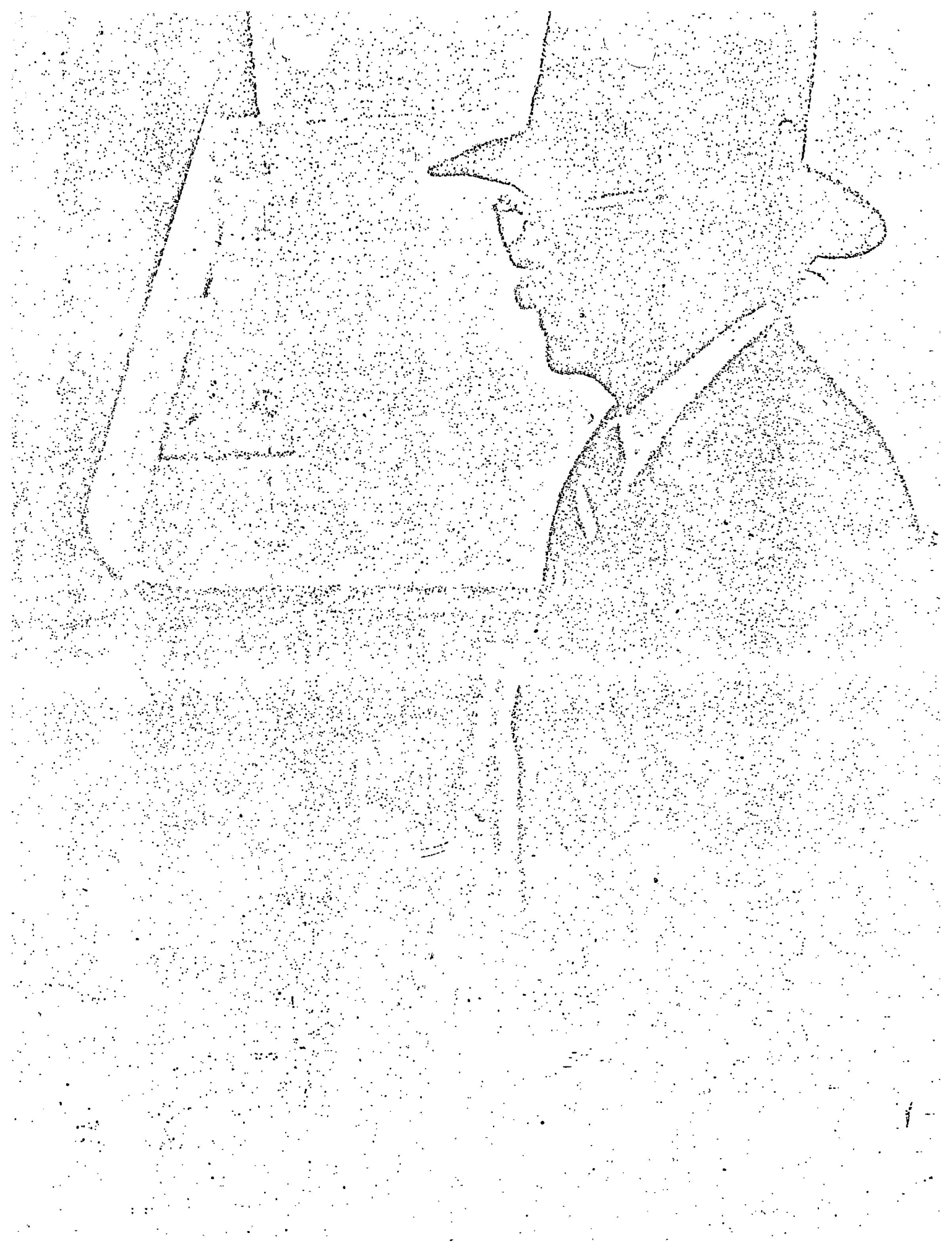
"And this guard said, 'You just forfeited your right.' And so I called him a pig—because he was. I mean that's the most apt political metaphor of this decade. When you get mad, in jail, anytime, and you don't let it out, your head gets complicated and that's when you do violent things. That's why people kill one another in prison, because day in and day out, day after day, they make you mad. If you're the kind of person who throws tantrums; you have a hard time, but if you can direct your anger, you see, you'll get along a lot better. That's why when they back me against the wall, I call 'em pigs. That makes me feel good. I was getting that anger out. Finally, I went to the adjustment committee and I told 'em they were treating me like a rat and that's why I called 'em pigs. I explained to 'em about behavior modification psychology."

Hayden's class liked that scene: to imagine Russo explaining to these crew cuts in their sun glasses and no

And they were amused at least a dozen times during the evening when Russo returned, almost obsessively, to the little matter of his incarceration. He urged the kids to mount a campaign at TI. "Phone TI and ask for Mr. Hudson. Call him every day."

Going to jail made an impact on Tony Russo. As well it might. He had never lived in a total institution before, not in a barracks, nor a monastery, nor an asylum. He'd grown up in a loving home with a mother who knew how to make the best *spaghetti al sugo* in Roanoke, Virginia, and a dad, a respected foreman with Planter's Peanuts, who bought Tony a set of the Encyclopedia Britannica when he was nine and took him on frequent walks in the country where together they hunted arrowheads and explored the wonders of woodland and stream and swamp. He got a degree in engineering from V.P.I. He got an M.S. in engineering at Princeton. He worked for NASA. He got another degree from Princeton, this time in public affairs. Then he joined the powerful RAND Corporation.

Russo says, "I went to RAND because I wanted to see what was going on. I wanted access so I could expose it." Though Russo, with his long hair and heavy mustache and his big black Borsalino, *looks* like an Italian anarchist, it is hard to see in Russo, then or now, such a conscious subversive. Looking at his gentle background, his soft-spoken, non-violent ways, one would rather believe Russo went to RAND because he wanted the association of



wrongs in the world as badly as I did.

At any rate, Russo had a happy life. He hadn't prepared him for prison. Even now, his revolutionary elan is a gentle one, best exemplified by the kind of community demonstration he supervised recently in Santa Monica. He gathered several hundred people in the Movement, many of them black, and gave everyone a red balloon. They then fanned up and down the beach cities, from Malibu to Marina del Rey, taking pictures of people and places. Russo chartered a helicopter (at \$65 an hour) and, spotting his people by spotting their red balloons, took pictures of them taking pictures. It was an exercise in knowing, learning something about their environment, and enjoying one another's company. That evening, they had a party and rapped about their day. That may have been a radical happening—this crowd did get some new ideas about their environment and radical action may follow. But for that day, Russo's Reds had no community impact. The populace was curious about the red balloons all over the place. Something was happening. But they didn't quite know what it was. . . .

So Russo's gentle nature was shocked by prison life and he recorded his shock in a journal. Maybe, says Russo, the guards thought his journal was something like George Jackson's—because, he says, they kept trying to steal it away from him. He had to sleep with it under his pillow and take it with him to the shower in a plastic bag.

Now, because he needs the bread (he is \$6,000 in debt), he wants to publish his prison journal. He could

get far more bread by signing a contract to produce an insider's story. But he and Ellsberg came to take matters into their own hands, grab the Pentagon Papers, Xerox them in the dead of night and get them out into the public domain. But that story will have to wait—not because the story Russo has to tell is all that incriminating (in fact, Russo has offered to tell the story to the world) but because the story must be saved for the public trial of Daniel Ellsberg. Russo sees that trial as a form of theater. "We'll call Kissinger. We'll call LBJ. Didn't LBJ leak material to the press?"

For the nonce, Russo will tell only the outlines of his story. He first met Ellsberg in Vietnam, at the RAND villa, in 1965. Russo was part of a research team studying Vietcong morale. Ellsberg was secretary to the Edwin Lansdale group. Somebody told Russo that Ellsberg was "very bright." But their acquaintance at the time was casual.

Russo came to Vietnam believing the VC were politically naive, hardly bona fide Communists. After interviewing scores of VC, however, through an interpreter, Russo found "they really were Communists." Then, he went through a second phase. He began to see little wrong with their brand of Communism. Russo remembers several days he spent with a captured VC, a propaganda specialist who had spent most of his time putting on agitprop theater in South Vietnam villages. "I really dug that guy," says Russo. "It took me some time, but finally I developed a rapport with him. I told him about the

Russo (below, at home in Santa Monica Canyon) prepares his defense: "We'll call Kissinger. We'll call LBJ. Didn't LBJ leak material to the press?"





US, about the Movement. He cited poetry for me and sang songs for me in his little room. Finally, I saw him as a brother. Then I realized we were on the wrong side."

In February 1968, back in Santa Monica, Russo and Ellsberg became friends, went out to the same parties, read some of the same books, started dabbling in the group encounter movement (something common enough in Southern California in 1968) and argued politics. (Russo supported McCarthy, Ellsberg Robert Kennedy.) Ellsberg had been involved in RAND's part of the McNamara-commissioned study on the Vietnam war and Russo wanted in, too; but RAND, says Russo, suspected his motives and ended up asking him to find another job. Russo took six months to pack up.

By then, he and Ellsberg were very tight, the situation in Vietnam was getting to be more and more of "an Orwellian nightmare" and then Ellsberg started receiving significant chunks of the Pentagon Papers. He knew, says Russo, that the study would "make trouble." But it didn't. As the months passed, and the Pentagon Papers in all their import seemed to be ignored in the corridors of power (Henry Kissinger, for example, didn't have time to read them), Ellsberg began wondering. He had a sense of responsibility—not to RAND, not to the government, but to the people at large.

Russo and Ellsberg thought the people ought to know. The two of them became co-partners in the Pentagon Paper caper.

As in the best caper movies, Russo and Ellsberg had their heart-in-the-mouth moments. On the Night of the Xerox, in an L.A. ad agency, Russo looked up from the copying machine to see a policeman staring through a window at him. "Oh, shit!" said Russo, quaking inwardly. "What went wrong?" Outwardly, however, he brazened it through. "Oh, yes," he said to the cop, pretending he was an employee. "We've been having some trouble with the burglar alarm system. The alarm technician was here earlier. He left his card, in case anything happened." That happened to be the truth. And the guard departed.

Where was Ellsberg? Where was Linda Sinay, the girl friend of Russo at the time? Russo is reluctant to discuss other elements of the caper in specific detail, until after the trial of Daniel Ellsberg. Russo's own legal fate is unclear. The government, apparently, is after Ellsberg as the leader, certainly the more "responsible" of the two. It was he who signed out for the papers at RAND; it was he, says Russo, who made the final decision to make the papers public. (Do not be surprised, however, if the government indicts others, for others were involved in distributing the papers not only to the *N.Y. Times* but to a dozen other papers as well....)

In the meantime, Russo lives alone in a little pad in Santa Monica Canyon, furnished with one chair, one half of a couch, a cheap stereo, a hundred LP records and what looks like 1,000 books. US Government Printing Office documents. *The Origins and History of Consciousness* by Neumann. *Education and Ecstasy* by George Leonard. *A Manual of Classical Erotology*. *A Directory of New Innovative Schools in the U.S. and Canada* published by the New School Exchange, 2840 Hidden Lane, Santa Barbara, California. Magazines like *Trans-action*, *The Washingtonian*, *Earth*.

Russo has a lot of friends, long hairs mostly, judging from those who dropped in one recent weekend. Russo

is now on the network. "I never knew the Berrigan people," he says. "Now I know 'em, and they're great. We have a real sense of solidarity."

Russo wonders whether he will continue to remain at large. He has been indulged by the federal courts and surprised that the courts have gone along with his desire to tell his story in a way that will become immediate public record. And he looks forward to the trial early next year, election year. It is a chance, he thinks, to educate the public. "I don't know if the Movement will make the kind of trouble in LA that it made at the Democratic Convention in Chicago," he tells the students at Immaculate Heart College. "But we may have a six months trial. We may put Kissinger on the stand."

One of the young men in class makes a disrespectful noise. "If Congress couldn't get Kissinger to testify, how are you gonna get him to testify?" Russo says quietly that he doesn't know. "We'll just try, that's all we can do." Russo is just that low key, not a very wild eyed revolutionary, not a fanatic.


At RAND, Russo felt at times that he was a second class citizen. Others had gone through "rites of passage" which got them into "the inner sanctum." Russo never went through those rites and his disaffection with the system (and with himself for not having made it deep into the system) may have triggered his revolt from the system. If the system wouldn't give him love and allow him to grow, the hell with it. He'd find love and growth elsewhere.

He has grown. And he has found love. He has become moreover, famous, more famous in fact than any of the people who towered over him at RAND. Now, at least when he visits RAND with our photographer who wants some shots of Russo "on location," everyone at RAND knows Tony.

"Haven't you caused enough trouble already, Tony?" asks a pained looking security guard who finds Russo mugging over a machine in back of RAND, right off public alley. The machine is spewing forth what were once secret documents but are now simply bits of crushed paper. "You know that's private property," says the guard. Russo, who was only sticking his hand under the stream of pulverized paper, simply smiles—amiably. A group of secretaries peer through the windows at Russo and the guard. They are laughing. "Hey, there's Tony Russo!"

Later, at an ACLU meeting in Santa Monica, Russo is on a panel invited to discuss governmental secrecy. Other invited are the chairman of UCLA's political science department, an executive at RAND, an executive of the *L.A. Times*, and a veteran radio newsman. Russo alone needs no introduction (and, in fact, gets none from the moderator until someone points out the oversight).

"We don't need secrecy in government," says Russo. "None at all. Just discretion. We've got a culture of secrecy and we don't need that."

If there were no culture of secrecy, said Russo, there would be no need for public servants to "leak" information to the press (and therefore to the public). As long as there is, however, Russo foresees others following the lead of Dan Ellsberg and, as a consequence, further moral breaking clamp-downs by the government. "Already," said Russo, "people in the White House have gotten the word; they're afraid to talk to one another." 

(Mount Clipping in Space Below)

# The Birmingham News

Clarence B. Hanson, Jr., *Publisher*

Victor H. Hanson, II,  
*Vice President, General Manager*

Vincent Townsend,  
*Vice President, Assistant to Publisher*

John W. Bloomer,  
*Managing Editor*

James E. Jacobson,  
*Editorial Page Editor*

Victor H. Hanson, *Publisher, 1910-1945*

Wednesday, January 5, 1972

## Unrelated Matters

The indictment of Daniel Ellsberg and Anthony J. Russo in connection with the Pentagon Papers incident brings to mind a point which should be considered in sorting out the controversy.

The point is that the conduct of Ellsberg and Russo has nothing to do with whether the government should or should not maintain the present system of classifying documents.

After the flap about the publication of the Pentagon Papers, friends of Ellsberg attempted to justify his actions by challenging the present practice of classifying documents.

And it may be true that documents often are classified secret or top secret which might not harm the security of the country if their contents were revealed.

We think this point is well made—careful scrutiny should be made of routine and frivolous classification of any and every document. No documents should be classified which do not absolutely need to be classified. The public should not be denied its right to knowledge about the workings of government unless the revealing of that information would constitute real harm to the nation's security.

If Congress decides to change the present classification procedures, it can go about it in a legitimate and legal manner. It has that authority.

But no one individual has the authority to take upon himself the declassification of documents marked Top Secret. And if an individual is

proved willfully to have violated the law by making secrets known, that individual should be punished.

Now, Ellsberg and his colleague have been indicted. Until he has been tried, he is an innocent man under the law.

But if after a fair trial he is convicted, the pros and cons of the government's method of classifying documents would be completely irrelevant.

However misguided the law may seem to some individuals, the law is the law; it must be respected if we are to live by the rule of law and not by the whim of anarchy.

So let's keep the conduct of Ellsberg and his colleague separate from considerations of whether the classification system needs to be changed. They are two unrelated matters.



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Mr. Felt	_____
Mr. Rosen	_____
Mr. Mohr	_____
Mr. Bishop	_____
Mr. Miller	_____
Mr. Callahan	_____
Mr. Casper	_____
Mr. Conrad	_____
Mr. Dalbey	_____
Mr. Cleveland	_____
Mr. Ponder	_____
Mr. Bates	_____
Mr. Waikart	_____
Mr. Walters	_____
Mr. Soyars	_____
Tele. Room	_____
Miss Holmes	_____
Miss Gandy	_____

(Indicate page, name of newspaper, city and state.)

Page 2 The Birmingham News

Birmingham, Alabama

Date: 1-5-72

Edition: Metro

Author:

Editor: John W. Bloomer

Title: 65-74060-A

NOT RECORDED

Character: 170 JAN 18 1972

or

Classification:

Submitting Office: Birmingham

☐ Being Investigated

*Jan 15 file*

BA  
51

O'McLek

**Pentagon Papers  
Move Withdrawn  
By Government**

Associated Press

BOSTON (AP) — The federal government says it has withdrawn its subpoena of the financial records of the Unitarian Universalist Association in connection with a grand jury investigation of the distribution of the Pentagon papers.

Beacon Press, the publishing arm of the association, last fall published a four-volume edition of the once-secret war study provided to it by Sen. Mike Gravel, D-Alaska.

U.S. Atty. Warren Reese said yesterday the subpoena was being withdrawn "because of a new understanding about the restrictions imposed by the Appeals Court in the Gravel case."

The U.S. Court of Appeals—citing the senator's legislative immunity—ruled 10 days ago that the federal grand jury could not question any witnesses about Gravel's role in the Pentagon papers case. Reese indicated that the government would go to the Court of Appeals today seeking to get the Gravel order modified to permit reissuance of the subpoenas.

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*Johnson*  
*Wagner*

The Washington Post  
Times Herald \_\_\_\_\_  
The Washington Daily News \_\_\_\_\_  
The Evening Star (Washington) A-4  
The Sunday Star (Washington) \_\_\_\_\_  
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The National Observer \_\_\_\_\_  
People's World \_\_\_\_\_

Date 1/18/72  
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58 JAN 20 1972

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# Pentagon Papers Case Delayed

By Sanford J. Ungar

Washington Post Staff Writer

BOSTON, Jan. 17—The federal grand jury here investigating disclosure of the Pentagon papers, was delayed again today, after witnesses subpoenaed to testify charged that the government was not telling the whole truth about wiretapping in the case.

The Justice Department agreed to postpone indefinitely the appearance of four witnesses called for Tuesday, pending a ruling by Chief Judge Anthony Julian of U.S. District Court here on their motion to quash or limit the subpoenas.

Three of the witnesses—Ralph Stavins, a fellow at the Institute for Policy Studies in Washington, Noam Chomsky, linguistics professor at the Massachusetts Institute of

Technology, and Richard Falk, international law professor at Princeton University—contend that they have been the subjects of government wiretapping.

Their lawyers charged today that the government side-stopped the issues in affidavits denying the wiretappings.

Those affidavits, signed by an attorney in the Internal Security Division of the Justice Department, state that an "inquiry" with "the appropriate agencies of the federal government" had produced no evidence of electronic surveillance.

Judge Julian suggested it would be no "hardship" for the government to provide a more specific denial, including a list of government agencies that had been checked.

Like Falk and Chomsky, Stavins was previously excused from testifying after producing affidavits of his own indicating that he had strong reason to believe he was being overheard and wiretapped.

Another prospective witness, assistant professor Samuel Popkin of Harvard University, sought a court order prohibiting the government from asking him questions that might reveal his sources of scholarly information about Vietnam.

All four of the subpoenaed witnesses are friends or associates of Daniel Ellsberg, who has acknowledged making the top secret history of the Vietnam war available to the press

and is under indictment for conspiracy and other federal violations in Los Angeles.

In an other court action, U.S. District Judge Andrew A. Caffrey refused to act on a lawsuit filed against the Justice Department by the Unitarian-Universalist Association, charging that a subpoena for its bank records violated the First Amendment guarantee of freedom of religion.

Judge Caffrey noted that the subpoena, also issued by the grand jury investigating the Pentagon papers case, had been temporarily withdrawn. The religious association owns Beacon Press, which published an edition of the Pentagon papers provided by Sen. Mike Gravel (D-Alaska).

*Bohannon*  
*W. J. [unclear]*

The Washington Post Times Herald C-2  
 The Washington Daily News \_\_\_\_\_  
 The Evening Star (Washington) \_\_\_\_\_  
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 People's World \_\_\_\_\_

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42 JAN 19 1972

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*John V*



The News Business A-12A Justice Department Embargo on Some

WE WERE summoned to the Justice Department, about a dozen of us from newspapers, networks and wire services, on a dark and rather stormy night two weeks ago to pick up a piece of hot news. A rumor had been out for most of the day that there would be a new criminal indictment coming down in the Pentagon Papers case, but beyond that the word was mum.

One of the last to arrive, I was, as if at a police station, given the opportunity to make a single phone call before being admitted to the room where the news was kept. There was a trace of incredulousness in my editor's voice when I called to say, as per instructions, that "I am about to enter a room which I cannot leave until something happens in a distant city. I don't know yet what the event is or where the city is, and once I do, I won't be able to tell you until it happens. You may not be hearing from me for hours."

THE NEWS was hot all right. Daniel Ellsberg and Anthony J. Russo Jr. had been indicted on a conspiracy charge and, between them, on 14 substantive counts in connection with disclosure of the Pentagon Papers; the most surprising element of it was that Vu Van Thai, a former South Vietnamese Ambassador to the United States, was named as an unindicted co-conspirator in the new case. But the indictment had been sealed by a federal judge in Los Angeles, while the FBI searched for Russo. (Ellsberg was already under jurisdiction of the court.) Once Russo was arrested, we were assured by a Justice Department public information officer, the agents would tell the prosecutors in Los Angeles, who would immediately call Washington and we would be free to sprint for the typewriters and phones. It was all going to happen any minute, so we had better read the indictment and the Justice Department press release and compare the old indictment being superseded and take a look at the statutes involved . . . fast.

We were, in a word, under an embargo. No one ever dreamed—in fairness, not even the good souls at the Justice Department, who seemed genuinely eager to help out the reporters—that it would almost take on the proportions of the U.N. embargo on Rhodesian chrome. We sat, and paced, and speculated, and became restless, as one deadline after another passed us by. Russo was more elusive, or the FBI less dogged, than supposed. Yes, it was O.K. to wander down the hall to the men's room, if one returned quickly. Yes, it was fine to call me and cancel dinner plans. No, we could not use

Hot NewsBy Sanford Ungar

typewriters to get ready just in case the crucial phone call came. Yes, we were eventually permitted to call our editors under surveillance and make nonsense conversation, as long as we gave nothing away.

For a fleeting moment, there was an incipient revolt. Maybe we should break this silly embargo, a few of us muttered, because the word is bound to get out in California anyway. What about The Washington Post's new stand on the matter of background briefings? But this was not a background problem, it was an embargo, and principled people do not break embargoes. When we entered that room, we promised . . .

O'Neil

The Washington Post  
Times Herald

A-12

The Washington Daily News \_\_\_\_\_  
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Date JAN 15 1972

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42 JAN 19 1972

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Gandy \_\_\_\_\_

C.B. Brennan  
W. J. [unclear]

SHORTLY before midnight (we had arrived at about 7 p.m.), we gave up and drifted away. I came back to The Post newsroom and drafted a story, put it in a "Personal and Confidential" envelope, addressed to myself and tucked it away in my mailbox; if I got the word during the night, I would notify the proper editors to take it out. Colleagues in the newsroom asked what was going on. "I'm conspiring with the Justice Department to suppress the news," I replied cryptically and, by this time, a little bitterly.

One of Russo's lawyers called The Post—and The Star and, I later learned, a number of other newspapers—at about 1 a.m. to say, "We understand they're looking for our man. Is that true?" Well, to tell you the truth, I was constrained to reply, I'm under obligation to the Justice Department not to say, even though you know, and they know

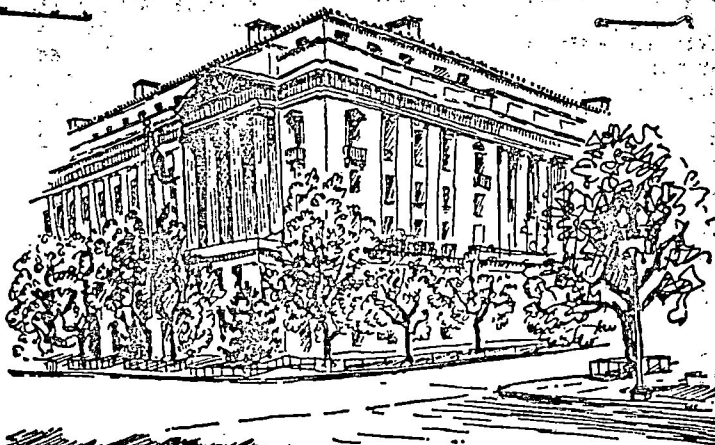
and a dozen other reporters know. The point was that the indictment was still sealed, and this had to remain non-news (albeit hot non-news) for the public we (the Justice Department and the press, each in its own way) purport to serve.

About 12 hours later (even though Russo had still not been arrested, but had announced that he would turn himself in on the basis of the rumors), the indictment was unsealed in Los Angeles and, through a Jus-

Justice Department announcement in Washington, the public was authorized to be let in on our secret. The Justice Department press release, authorized version, said "For Immediate Release Thursday" (our original ones had said "Wednesday").

Ellsberg's lawyers, by and by, announced they would file a motion to quash the indictment on the grounds that it had been illegally revealed to newsmen in advance. But they had to get their information about what

went on in the secret session from the Justice Department, because we of the press—being principled people—were honor-bound not to say what had transpired. We don't give information privately to either side of an adversary proceeding, we were constrained to insist; we receive it, sometimes under rather peculiar circumstances, and publish it.



Sketch by Wendy Cortesi.

# Gravel Data Publisher Charges <sup>A-5</sup> Harassment

Beacon Press, publisher of the "Sen. Gravel Edition" of the Pentagon Papers, has asked a federal court in Boston to bar the government agents from "harassing" it.

The publisher, which is controlled by the Unitarian-Universalist Church, complained that freedom of religion is being threatened by the Justice Department's investigation of the release of a four-volume set of the secret documents on the Vietnam war.

Beacon's books contain the version of the Pentagon Papers which Sen. Mike Gravel, D-Alaska, read publicly June 29 at a midnight hearing of a Senate subcommittee which he heads.

The 1st U.S. Court of Appeals, in a decision on Friday, cleared the way for a federal grand jury in Boston to resume a probe into Beacon's publication of the documents.

Yesterday, aides to Gravel said he had decided to ask the appeals court to reconsider several parts of its ruling, and to "clarify" the scope of the investigation into Beacon Press's activities.

The senator's aides also reported that FBI agents yesterday served, and then promptly withdrew, subpoenas to two officials of Beacon Press, demanding the publisher's records and bank account. The aides said no explanation was given for taking back the subpoenas.

They were served, it was reported, at the Boston press conference at which Beacon officials were announcing their plans to seek legal protection against the continuing probe of its role in the secret papers' publication.

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The National Observer \_\_\_\_\_  
People's World \_\_\_\_\_

Date JAN 12 1972

65-74060-A

FINAL EDITION

JAN 18 1972

Jan 15 file

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The National Observer \_\_\_\_\_  
People's World \_\_\_\_\_

Date JAN 12 1972

58 JAN 20 1972

NOT RECORDED  
170 JAN 18 1972



# Unitarians Sue U.S. On 'Papers' Case

By Sanford J. Ungar  
Washington Post Staff Writer

The Unitarian-Universalist Association, charging that its First Amendment guarantee of freedom of religion was being threatened, filed suit against the Justice Department in Boston yesterday, seeking cancellation of a grand jury subpoena for its bank records.

A federal judge scheduled a hearing for next Monday on the association's request for an emergency court order to keep it out of an investigation of the disclosure of the Pentagon papers.

Beacon Press, the non-profit publishing arm of the religious organization, last October published an edition of the top secret history of the Vietnam war based on a copy of the papers provided by Sen. Mike Gravel (D-Alaska).

In November, Gravel succeeded temporarily in stopping the FBI from examining bank records that might reveal his transactions with the Unitarian-Universalists and Beacon Press.

But last week, ruling on an appeal brought by Gravel, the U.S. Court of Appeals for the First Circuit said the grand jury was free to inquire into publication of the papers by Beacon, so long as it did not question Gravel or any of his aides on the subject.

Gravel's lawyers said yesterday they will ask the appellate court to extend congressional immunity to cover book publication arranged by the senator.

Dr. Robert N. West, president of the Unitarian-Universalist Association, yesterday said that the subpoena for the bank records "strikes at the heart of religious freedom in our land."

He stressed in an affidavit

filed with U.S. District Court in Boston that Beacon is merely the "publishing department" of the religious organization, not a separate company.

The association's lawsuit said that inspection of the bank records — covering all deposits and disbursements between June 1 and Oct. 15 of last year — would risk disclosure of the names of donors and the amounts they contributed, information normally kept confidential.

West said the association's suit had the support of the Conference of Catholic Bishops, the National Council of Churches and the Synagogue Council of America.

During a press conference in Boston yesterday, where the suit was announced, FBI agents appeared and served a grand jury subpoena on Gobin Stair, executive director of Beacon Press.

Half an hour later, the agents reappeared and withdrew the subpoena. A similar one served on the association's bank Monday was also withdrawn yesterday.

There was no immediate explanation for the revocation of the subpoenas. Lawyers for Beacon pointed out, however, that last week's appellate court decision does not take full effect for another three weeks.

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# The Dan Ellsberg desk-top model

By MICHAEL OLMERT

One of the great publishing tales of all time is turning out to be the story behind the publication of *The Pentagon Papers*. In fact, it has already surpassed countless bibliographic landmarks, and now probably ranks with the Herculean task of gathering together the OED's mountain of index cards or, better yet, the sleuthing behind Charlton Hinman's *First Folio of Shakespeare*. However, among the many beneficiaries of that publishing feat, the most overlooked—until now—has been the copying machine trade.

We can only guess at the enormity of the windfall that those disclosures brought to, the legal profession, newspaper columnists and radio-TV commentators, and the media in general—everyone knows what summer traditionally does to Nielson ratings and newspaper circulation rates alike. On the other side of the coin, the security business was similarly bolstered—with countless demands for more briefcase checks, X-ray surveillance, police dogs, and armed guards.

It can now be revealed that while the rest of us were anguishing over the portent of the *Papers* themselves, in several Madison Avenue conclaves the issue was far different.

Think of it, they reasoned, nearly everyone—no matter what he may feel about war or peace in Indochina—knows that the "copy break" is as common a part of daily office life as the pool for the World's Series or a few moments with the steno who sells Tupperware.

For all those people, it follows then that the central fact about *The Pentagon Papers* is that together they represent 47 volumes, some 7,000-odd pages—a formidable task, no matter how efficient the copy center at your office.

Against this, they set down the realities of the copy business. Ordinarily, that industry is not seen as one that is unduly characterized by personality cults. Merit the caliber of Commander Schweppes or even Reddi-kilowatt have been absent from their marketing campaigns. However much they longed to get hold of a retired astronaut to tell the world how crucial their products are to our survival, as the railroads (non-passenger carrying, that is) have so admirably managed to do, they have been singularly without success. By contrast, though, they wanted someone that the public would right off the bat associate with copy machines. One executive even went so far as to suggest that—for him at least—the implied comparison between the sale of our space program and that of our railroads was demoralizing at best.

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Gandy \_\_\_\_\_

*John Edgar Hoover*

The Washington Post Times Herald 13 Book w/c

The Washington Daily News

The Evening Star (Washington)

The Sunday Star (Washington)

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As a result, among copy equipment it has long been the fashion to simply refer to your brand's 914, say, or 2100 model. Just that alone. But in this day of concern for the quality of life—as opposed to property—for one thing, and of resistance to all-digit dialing for another, it has become more and more common to crook a finger at these numerical sobriquets whenever the subject of flagging sales was under discussion. And rightly so. Do you think James Taylor or Melonie would be really content to use an all-number machine?

So now you know why the agents of literally all the major lights in the copy trade were there on Dan Ellsberg's Cambridge porch even before the FBI was.

And each manufacturer's representative was waving a six-figure contract that only involved a few promo appearances, the taping of some TV 30-second spots, and above all the exclusive use of his name.

Think of it, they urged him, as they elbowed J. Edgar's boys out of the way: The Mickey Mantle bat. The Ted Williams fishing rod. Chuck Taylor "All Star" basketball shoes. And now, the Dan Ellsberg desk-top copier, with "The Dan Ellsberg Model" emblazoned across its side in 72-point chrome script.

As for his TV spots, they already had him slated for saying something like: "Hi! I'm Dan Ellsberg and I'm here to tell you about a desk-top copier that'll give you sure-fire copies. Everytime. Time after time after time." Whereupon he would boldly depress the start button and copies would resolutely march out of the machine, while he'd continue: "And its unheard-of-reliability will give you hours of care-free reproduction. Just the thing for late-night jobs when you can't get hold of the serviceman. Call one of our coast-to-coast dealers today and get a free demonstration and the low-down on our liberal trade-in policy."

Anyway, with so many things on his mind, it's hard to say exactly what Ellsberg's response was. But it's no wonder he couldn't decide exactly which company's offer was the best and put off signing for a while.

Meanwhile, amid numerous conflicting reports, several companies have leaked stories to the press that Ellsberg has already signed. And the Attorney General's staff is preparing an anti-trust case against him should he be so foolish as to sign with a consortium of companies. As for which copy firm will land him, we can only adopt a "wait-and-see" stance. □



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# **Russo Wed in Coast Church, Then Joins Ellsberg on Dais**

Special to The New York Times

PALO ALTO, Calif., Jan. 7—

Anthony J. Russo Jr., who is under indictment with Dr. Daniel Ellsberg on charges of divulging the Pentagon Papers, was married here Friday night under bizarre circumstances.

While about 2,000 persons who had assembled at Memorial Church on the Stanford University campus waited to hear Dr. Ellsberg speak, Mr. Russo, dressed in an old outway coat and blue jeans, married Katherine Barkley, a 24-year old graduate student at the university. He then joined Dr. Ellsberg on the dais.

Just before the ceremony was performed by the Rev. Joseph Hardegree in the church's office, Dr. Ellsberg refused to cancel his address despite a bomb threat.

Mr. Russo, a 35-year old economist and engineer, has spent 47 days in jail for contempt for refusing to testify before a grand jury on his role in releasing the once secret Pentagon Papers.

*W. H. Hall*

*Be [unclear]*

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By Sanford J. Ungar

Washington Post Staff Writers

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Although it charged him with no crime, a federal grand jury in Los Angeles said that Vu Van Thai, 52, had "confederated" with Daniel Ellsberg and two others to reveal classified documents in violation of the federal espionage act.

By doing that, according to lawyers who have followed the case for the past seven months, the government may have provided a vital clue to its prosecution strategy.

They suggest that the government's objective may be to make Thai, who became an outspoken advocate of a negotiated settlement to the war upon his retirement from Saigon's diplomatic corps in early 1967, a vehicle for proving Ellsberg's "intent" in releasing the papers.

Criminal conviction under the espionage act, or conspiracy to violate the act, requires proof that the defendant "has reason to believe" that the documents he revealed "could be used to the injury of the United States or to the advantage of any foreign nation."

From the start, it has been assumed in legal circles that the government would find it difficult to establish a case against

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But in its new indictment against Ellsberg on December 30, the government alleged for the first time that he had actually given the classified documents to a representative (in this event, an ex-representative) of a foreign power—Vu Van Thai.

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The volume involved covers American diplomatic contacts aimed at ending the war and obtaining release of U.S. prisoners, and is one of the four that Ellsberg has said he held back from the press because they were too sensitive.

After his retirement as a diplomat, Thai—once a high official under South Vietnamese president Ngo Dinh Diem—never returned to Saigon. Apparently because of fundamental differences with then-premier Nguyen Cao Ky.

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A Harvard professor close to Ellsberg said that Dan did a series of interviews with Vu Van Thai for Rand. They had long, long conversations. Dan thinks the world of him."

#### Cues From Thai

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Thai, now a consultant for a United Nations river development program in the West African nation of Senegal, has refused to respond to repeated phone calls to Dakar, that nation's capital.

In a New York Times dispatch from Senegal, he was quoting him admiringly. "I am a friend of Dan Ellsberg." But he added that, "as to this case, it is a political affair, and since at the present time I am an international civil servant, rules forbid me to comment on a Vietnamese political affair."

Justice Department aides, invoking a ban on discussion of pending criminal cases, have also refused to elaborate on Thai's alleged involvement or to say whether the Vietnamese ex-diplomat cooperated in the Pentagon Papers investigation.

What Ellsberg's lawyers fear, however, is that the prosecution will seek to document any contacts Thai might have had with the North Vietnamese or with the National Liberation Front of South Vietnam, or even with Viet-

nam ~~se~~ neutralists, about the war, and portray them as having a sinister intent.

Vietnamese politicians, especially those out of power and favor do not necessarily share the general simplified American distinction between "pro-Communist" and "anti-Communist" elements in Southeast Asia.

Since Rand has cooperated fully with the government investigation, the Justice Department could also subpoena Thai's "internal notes" and presumably spell out in court the point of view that he was expressing.

Although there is continuing legal dispute on this point, it is generally accepted that juries are permitted to infer a criminal defendant's "intent" on the basis of circumstantial evidence presented at trial.

The appearance of Thai's name in the new Ellsberg indictment also revived speculation that some of the subpoenas issued by another grand jury investigating the Pentagon papers in Boston may be based on the government's efforts to establish connections with a "foreign power."

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Two of the witnesses called to testify there—Noam Chomsky, a linguistics professor at the Massachusetts Institute of Technology, and Richard A. Falk, a professor of international law at Princeton—have had frequent contacts with the North Vietnamese and NLF in Hanoi and Paris.

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As American policy has shifted toward winding down the war and attempting to withdraw from Vietnam, it is on just such recognized neutralists as Vu Van Thai—and perhaps even on individuals like Falk and Chomsky—that the U.S. government may have to rely for passing vital diplomatic messages.

#### Other Keys

Another clue to government other keys to government strategy in the new indictment of Ellsberg and Anthony J. Russo Jr., his long-time friend and Rand colleague.

Ellsberg's arsenal of defense lawyers had been expecting the original indictment returned against him last summer to be supplanted by a new and more specific one, but they were caught by surprise when the government moved only six days before pre-trial hearings were scheduled to open in Los Angeles.

By waiting so long, the Justice Department managed to flush out much of the defense's own strategy in preliminary court papers.

It became clear from the pre-trial motions filed on Ellsberg's behalf, for example, that the defense will assert that the Pentagon Papers prosecution involves a rare use of the federal espionage act and that it will also raise the specter of a "selective prosecution" of one person who leaked documents, while others go free every day.

One of Ellsberg's lawyers, former New York Republican Sen. Charles E. Goodell, acknowledged last week that the new indictment would be a harder one to defend against in court.

By using the conspiracy charge against Ellsberg and Russo, the government removed from itself the burden of proving every one of the alleged acts committed by the defendants. If their plans can be established adequately to the jury, that could be enough to obtain a conviction.

The government also tipped its hand by charging Russo only with "receiving" the classified documents in the new indictment.

Lawyers close to the case read that as meaning that indictments may be forthcoming in Boston against newspapers and publishing houses, along with individual employees of the organizations who personally "received" the Papers.



VU VAN THAI  
Ellsberg's friend



NOAM CHOMSKY  
... "nothing to it"



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Washington Post Staff Writers

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Another clue to government other keys to government strategy in the new indictment of Ellsberg and Anthony J. Russo Jr., his long-time friend and Rand colleague.

Ellsberg's arsenal of defense lawyers had been expecting the original indictment returned against him last summer to be supplanted by a new and more specific one, but they were caught by surprise when the government moved only six days before pre-trial hearings were scheduled to open in Los Angeles.

By waiting so long, the Justice Department managed to flush out much of the defense's own strategy in preliminary court papers.

It became clear from the pre-trial motions filed on Ellsberg's behalf, for example, that the defense will assert that the Pentagon Papers prosecution involves a rare use of the federal espionage act and that it will also raise the specter of a "selective prosecution" of one person who leaked documents, while others go free every day.

One of Ellsberg's lawyers, former New York Republican Sen. Charles E. Goodell, acknowledged last week that the new indictment would be a harder one to defend against in court.

By using the conspiracy charge against Ellsberg and Russo, the government removed from itself the burden of proving every one of the alleged acts committed by the defendants. If their plans can be established adequately to the jury, that could be enough to obtain a conviction.

The government also tipped its hand by charging Russo only with "receiving" the classified documents in the new indictment.

Lawyers close to the case read that as meaning that indictments may be forthcoming in Boston against newspapers and publishing houses, along with individual employees of the organizations who personally "received" the Papers.



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## Ellsberg Life Threatened In California

Special to The Washington Post

PALO ALTO, Calif., Jan. 7 — An assassination threat against Daniel Ellsberg was telephoned to Stanford University tonight shortly before he was to address a gathering at the University Chapel.

According to campus police, the young male caller said, "Daniel Ellsberg will be assassinated tonight. Please pass on the word so innocent people won't be hurt."

At the time he received word of the threat Ellsberg was attending the wedding of Anthony Russo, an associate in the release of the Pentagon papers, who is also under indictment in Los Angeles.

When told by police of the threat, Ellsberg accused them of "psychological intimidation." He was forced to cut his speech short. Police did not comment on the incident.

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ELLSBERG 12-31 NX

DAY LD

LOS ANGELES (UPI)--THE CHARGES AGAINST DANIEL ELLSBERG IN THE PENTAGON PAPERS LEAK WERE REPLACED THURSDAY BY A MORE SEVERE INDICTMENT THAT INCREASED THE MAXIMUM POSSIBLE PENALTY AGAINST HIM FROM 20 YEARS IN PRISON TO 115.

A FEDERAL GRAND JURY WHICH BROUGHT THE NEW 15-COUNT INDICTMENT ALSO INDICTED ELLSBERG'S FRIEND AND COLLEAGUE, ANTHONY J. RUSSO, AND NAMING A YOUNG ADVERTISING WOMAN AND A FORMER SOUTH VIETNAMESE AMBASSADOR TO THE UNITED STATES AS UNCHARGED COCONSPIRATORS.

THE NEW CHARGES WERE BASED ON THE 1940 ESPIONAGE LAW.

"THIS IS PART OF THE OVERALL POLICY OF ESCALATION BY THE ADMINISTRATION," RUSSO TOLD NEWSMEN AFTER SURRENDERING TO FEDERAL AUTHORITIES. "YOU HAVE SEEN HOW THEY HAVE ESCALATED THE WAR AND THIS IS HOW THEY ARE DOING IT ON THE DOMESTIC FRONT."

RUSSO WAS RELEASED ON HIS PERSONAL RECOGNIZANCE.

AT A NEWS CONFERENCE IN NEW YORK, ELLSBERG--WHO HAS ADMITTED MANY TIMES IN PUBLIC THAT HE LEAKED THE PENTAGON PAPERS TO NEWSMEN--SAID THE NEW INDICTMENTS CAME AS NO SURPRISE AND THAT HE WOULD PLEAD NOT GUILTY.

"I STOLE NOTHING, I DID NOT COMMIT ESPIONAGE AND I AM NOT AWARE OF VIOLATING ANY CRIMINAL STATUTE," ELLSBERG SAID.

HE WAS INDICATED THAT HE WILL BASE HIS DEFENSE ON THE ARGUMENT THAT IT WAS HIS DUTY AS A CITIZEN TO MAKE PUBLIC THE CONTROVERSIAL PENTAGON REPORT ON THE ORIGINS OF THE VIETNAM WAR, SO THAT THE PEOPLE OF THE COUNTRY WOULD KNOW WHAT THEIR LEADERS KNEW.

THE NEW INDICTMENT IDENTIFIED AS COCONSPIRATORS--BUT BROUGHT NO CHARGES AGAINST--LYNDA SINAY, AND VU VAN THAI, FORMER SOUTH VIETNAMESE AMBASSADOR TO THE UNITED STATES.

MISS SINAY, 27, A PETITE, DARK-HAIRED WOMAN, ONCE WAS PRESIDENT OF AN ADVERTISING AGENCY. SHE WAS GRANTED IMMUNITY WHEN SHE TESTIFIED BEFORE THE GRAND JURY. HER LAWYER TOLD NEWSMEN AFTER HER TESTIMONY THAT SHE TOLD THE GRAND JURY SHE HAD REPRODUCED DOCUMENTS FOR ELLSBERG ON THE PHOTOCOPY MACHINE IN HER OFFICE.

THAI WAS IDENTIFIED AS AMBASSADOR TO THE UNITED STATES FROM LATE 1965 TO EARLY 1967, AND IS NOW BELIEVED TO BE WITH A NOT RECORDED DEVELOPMENT TEAM WORKING ON A RIVER PROJECT IN SENEGAL.

THE INDICTMENT CHARGES THAT THAI RECEIVED FROM ELLSBERG BETWEEN AUGUST, 1969 AND MAY, 1970--WHEN THAI WAS A U.N. OFFICIAL--A VOLUME OF THE PENTAGON PAPERS THAT WAS TITLED, IN PART, "SETTLEMENT OF THE CONFLICT, NEGOTIATIONS 1967-68, HISTORY OF CONTACTS."

WASHINGTON CAPITAL NEWS SERVICE

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ELLSBERG ORIGINALLY WAS INDICTED ON COUNTS OF POSSESSING GOVERNMENT DOCUMENTS WITHOUT AUTHORIZATION AND CONVERTING THEM TO HIS OWN USE. THE CHARGES CARRIED A MAXIMUM PENALTY OF 20 YEARS IN PRISON AND A \$20,000 FINE.

UNDER THE NEW INDICTMENT, HE WAS ACCUSED OF 11 FEDERAL CRIMES PLUS CONSPIRACY, WHICH WOULD LEAVE HIM LIABLE, IF CONVICTED ON ALL COUNTS, TO A MAXIMUM SENTENCE OF 115 YEARS IN PRISON AND A \$120,000 FINE.

THE NEW INDICTMENT CHARGES THAT ELLSBERG OBTAINED SECRET DEFENSE INFORMATION FROM THE JOINT CHIEFS OF STAFF ON MILITARY MANPOWER REQUIREMENTS IN VIETNAM.

IT ACCUSES HIM OF CONSPIRACY WITH RUSSO, THAI AND MISS SINAY. HE IS ACCUSED OF INVOLVEMENT IN STEALING, RECEIVING, CONCEALING, CONVEYING AND REFUSING TO RETURN CLASSIFIED MATERIAL AND DEFRAUDING THE GOVERNMENT BY CONTRAVENTING ITS CONTROL OF CLASSIFIED MATERIAL.

RUSSO AND ELLSBERG WERE BOTH RESEARCHERS AT THE RAND CORP. IN SANTA MONICA, CALIF., FROM WHERE THE GOVERNMENT CHARGES THE PENTAGON PAPERS WERE STOLEN.

RUSSO ALREADY HAS SPENT 47 DAYS IN JAIL FOR CONTEMPT FOR REFUSING TO TESTIFY IN SECRET BEFORE THE GRAND JURY THAT INDICTED ELLSBERG, EVEN THOUGH HE HAD BEEN OFFERED IMMUNITY. HE ONCE SAID THAT HE WAS PROUD TO STAND WITH ELLSBERG IN TAKING RESPONSIBILITY FOR THE LEAK.

RUSSO WAS RELEASED FROM JAIL WHEN HE AGREED TO TESTIFY BEFORE THE GRAND JURY IN RETURN FOR A TRANSCRIPT OF HIS TESTIMONY TO MAKE PUBLIC IN A BARGAIN IMPOSED BY A FEDERAL JUDGE. THE JUSTICE DEPARTMENT LATER REFUSED TO GO ALONG WITH THE TRANSCRIPT DEAL, SO HE NEVER TESTIFIED. THE JUDGE RULED THAT RUSSO HAD PURGED HIMSELF OF CONTEMPT BY HIS WILLINGNESS.

FEDERAL ATTORNEYS SAID THURSDAY, HOWEVER, THAT SINCE RUSSO NEVER HAD ACTUALLY APPEARED BEFORE THE GRAND JURY, HE WAS NOT PROTECTED BY THE IMMUNITY THAT HAD BEEN OFFERED IN RETURN FOR HIS TESTIMONY.

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ELLSBERG 1-5 NX

DAY LD

LOS ANGELES (UPI)--DANIEL ELLSBERG, INDICTED ON MORE SERIOUS CHARGES IN THE PENTAGON PAPERS CASE, PLEADED INNOCENT AGAIN TUESDAY AND SAID HE WILL BASE HIS DEFENSE ON THE AMERICAN PEOPLE'S RIGHT TO KNOW THE TRUTH ABOUT THE VIETNAM WAR.

A FEDERAL JUDGE SCHEDULED ELLSBERG TO GO ON TRIAL BEGINNING MARCH 7, WITH HIS ACCUSED CO-CONSPIRATOR, ATHONY J. RUSSO.

"THE PUBLIC'S RIGHT TO KNOW IS WHAT THIS TRIAL IS ALL ABOUT," ELLSBERG TOLD NEWSMEN ON THE STEPS OF THE FEDERAL COURTHOUSE.

"IT IS ABOUT THE RIGHT TO KNOW THE FACTS ABOUT THE POLICIES THAT FIVE PRESIDENTS HAVE CARRIED OUT IN THIS WAR, SO THEY (THE PEOPLE) CAN ACT TOGETHER TO END THIS WAR ..."

ELLSBERG APPEARED TO PLEAD INNOCENT TO 12 CHARGES HANDED DOWN BY A FEDERAL GRAND JURY LAST WEEK, REPLACING THE TWO CHARGES ORIGINALLY LODGED AGAINST HIM.

HE WAS ACCOMPANIED BY CHARLES GOODELL, FORMER REPUBLICAN SENATOR FROM NEW YORK AND NOW CHAIRMAN OF THE NATIONAL DEFENSE COMMITTEE FOR ELLSBERG. GOODELL APPARENTLY HOPES TO ENTER THE CASE AS CO-COUNSEL FOR THE DEFENSE.

ELLSBERG HAS ADMITTED PUBLICLY MANY TIMES THAT IT WAS HE WHO TURNED OVER TO THE NEW YORK TIMES AND OTHER NEWSPAPERS THE SECRET REPORT ON THE ORIGINS OF THE WAR IN VIETNAM. HE AND RUSSO WERE RESEARCHERS AT THE RAND CORP. THINK TANK, FROM WHERE THE GOVERNMENT SAYS THE MULTI-VOLUME REPORT WAS STOLEN.

ELLSBERG, 40, HAD PREVIOUSLY BEEN CHARGED WITH UNAUTHORIZED POSSESSION OF THE DOCUMENTS AND CONVERTING THEM TO HIS OWN USE. THE MAXIMUM PENALTY FOR CONVICTION ON THOSE CHARGES IS 20 YEARS IN PRISON.

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THE NEW INDICTMENT CONTAINS 12 COUNTS AGAINST ELLSBERG CARRYING A MAXIMUM PENALTY OF UP TO 115 YEARS IN PRISON. THE NEW INDICTMENT IS BASED ON THE 1940 ESPIONAGE LAW AND ALLEGES THEFT, FRAUD, REFUSAL TO RETURN THE DOCUMENTS AND CONSPIRACY WITH RUSSO, LOS ANGELES ADVERTISING WOMAN LYNDY SINAY, AND VU VAN THAI, SOUTH VIETNAMESE AMBASSADOR TO THE UNITED STATES FROM 1965 TO 1967.

THAI AND MISS SINAY WERE NAMED AS CO-CONSPIRATORS BY THE GRAND JURY BUT WERE NOT INDICTED. MISS SINAY WAS GRANTED IMMUNITY IN RETURN FOR TESTIFYING BEFORE THE GRAND JURY, AND THAI, NOW WITH THE UNITED NATIONS, IS BELIEVED TO BE WORKING IN AFRICA.

THE INDICTMENT CHARGES ELLSBERG GAVE THAI A SECRET U.S. DOCUMENT ON THE HISTORY OF AMERICAN CONTACTS IN SOUTH VIETNAM.

ELLSBERG WAS ACCOMPANIED BY RUSSO, 35, WHO DECLINED TO ENTER A PLEA ON THE GROUNDS HE HAD BEEN GRANTED IMMUNITY TO TESTIFY BEFORE THE GRAND JURY.

THE JUDGE ENTERED A PLEA OF INNOCENT FOR HIM, SAYING IT WOULD NOT PREJUDICE HIS ARGUMENT.

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# Letters To The Editor

## Mr. Otepka Replies to Some Accusations

Mr. Nicholas von Hoffman's commentary on the merits of The Washington Monthly (Post, December 29), includes the statement "It will do things like compare Daniel Ellsberg, the guy who stole the Pentagon Papers, with Otto Otepka, the right wing guy who gave classified State Department documents to J. G. Sourwine of the Senate Internal Security Subcommittee."

In his accolades to the magazine's editor and staff Mr. von Hoffman says "It has a group of good, new young writers who do well-researched entertaining essays that really do tell you things you didn't know before." He credits the editor, Mr. Charles Peters, for discovering new talent which can dig up people inside the bureaucracy who don't have to do expensive research because they already know. "You have to find someone with direct involvement and match him up with a writer like Taylor Branch," says Mr. Peters, via Mr. von Hoffman.

Back to the drawing boards, fellas!

Mr. Branch has been mismatched. There is no authoritative bureaucrat, young or old, with direct or indirect involvement who can corroborate the following statements made about me by Mr. Branch in the October issue of The Washington Monthly:

- That I violated national security by slipping classified documents to Mr. Sourwine.
- That I was fired from the State Department in 1963.
- That I sent classified documents to Mr. Sourwine from which I had clipped the classification stamps.
- That I fired a State Department employee who had leaked a secret survey to Kennedy campaign sources in 1960.
- That I gave senators a batch of classified documents.

I have never violated national security and I have never been charged with that offense.

I did not slip, leak or otherwise secretly convey any classified document to anyone in Congress or anyone outside of government. I furnished relevant information to a congressional committee during a formal hearing, on its request, while appearing as a duly summoned witness. My testimony helped establish that three State Department officers had lied under oath.

I have never been fired by the State Department or by any other government agency. My employment with the department was terminated by my voluntary transfer to my present position on June 30, 1969.

I did not clip classification stamps from any classified document and I did not furnish any clipped or mutilated documents to anyone. The State Department informed me in writing that I did not personally clip any document. I do not know who did the actual clipping. I know of no one who has been charged with that offense. The department has refused to inform Congress why the person responsible has not been prosecuted. All of the clipping charges were mysteriously dropped by the department.

I have not fired any State Department employee. I had no authority to do so. None of the persons involved in the 1960 incident was dismissed from the government.

I did not furnish a batch of classified documents to anyone. I furnished two, and only two, documents to a congressional committee carrying the classification "Confidential." I had classified these documents myself.

I am confident that intelligent readers will conclude once they obtain accurate data from the media that there is no basis whatsoever for comparing Mr. Ellsberg's action with mine.

OTTO E. OTEPKA

Member, Subversive Activities Control Board.  
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**'People's right to know'**

LOS ANGELES—Dr. Daniel Ellsberg, indicted on additional charges including conspiracy, said he will base his defense on the people's right to know the truth about the Vietnam war. Ellsberg is scheduled to go on trial March 7 with Anthony J. Russo, named by a grand jury as a co-conspirator.

"The people's right to know is what this trial is all about," Ellsberg told newsmen here Tuesday at the Federal courthouse. "It is about the right to know the facts about the policies that five presidents have carried out in this war, so they (the people) can act together to end this war."

Ellsberg and Russo appeared at the court to plead innocent. Charles Goodell, formerly U.S. senator from New York, who was defeated by an alliance of Nixon and Buckley forces, is now chairman of the National Defense Committee for Ellsberg.

The new indictment against Ellsberg carries a maximum penalty of 112 years in jail. It is based on the 1940 Espionage Law and alleges theft, fraud, refusal to return the documents, and conspiracy with Russo, Los Angeles advertising woman Lynda Sinay, and Vu Van Thai, South Vietnamese ambassador to the United States from 1965 to 1967.

Thai and Miss Sinay were named as co-conspirators by the grand jury but were not indicted. Miss Sinay was granted immunity in return for testifying before the grand jury. Thai is now working for the UN in Africa.

Ellsberg has admitted publicly that he turned over to the New York Times and other newspapers a file of documents dealing with the Vietnam war which were prepared on the orders of Robert S. McNamara, then Secretary of Defense. The documents, known as the Pentagon Papers, have been published by the press and in book form.

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# Public's Right to Know Is Issue, Ellsberg Says

LOS ANGELES (UPI)—Daniel Ellsberg pleaded not guilty yesterday to a series of federal criminal charges growing out of the theft of the Pentagon papers, and said afterward that the public's right to know would be the core of his defense.

U.S. District Judge William M. Byrne set March 7 as the trial date for the former Rand Corp. researcher who has admitted he removed secret files on the origins and evolution of the Vietnam war.

The same date was set for Anthony J. Russo Jr., Ellsberg's former associate, who also entered a plea of not guilty through the court.

Ellsberg, 40, had previously been charged only with unauthorized possession of the documents and converting them to his own use, but on Dec. 29

a grand jury returned a new indictment with 15 counts—including conspiracy and a charge that he turned over papers to South Vietnam's ex-ambassador to this country, Vu Van Thai.

Ellsberg was accompanied to court by former U.S. Senator Charles Goodell, New York Republican, who apparently hopes to enter the case as a co-counsel for the defense.

After the brief hearing, Ellsberg told newsmen, "The public's right to know is what this trial is all about. . . . It is about the fight to know the facts about the policies that five presidents have carried out in this war so they (the American people) can act together to end this war before another half million tons of bombs have been dropped before next New Year's Day."

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# THE WORLD TODAY

THE Indianapolis Humane Society reports that thieves are selling large dogs to crime-conscious residents in other cities.

Daniel Ellsberg pleaded innocent in Los Angeles to a series of federal criminal charges growing out of the theft of the Pentagon papers and said the public's right to know would be the core of his defense.

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**Public's Right to Know  
 Is Issue, Ellsberg Says**

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# Ellsberg Trial Set March 7 In Disclosure of War Study

By Robert Meyers

Special to The Washington Post

LOS ANGELES, Jan. 4—Daniel Ellsberg pleaded innocent today to 12 federal charges stemming from the disclosure of a secret Pentagon study of the origins of the Vietnam war.

Ellsberg, 40, is charged with conspiracy and 11 substantive counts alleging theft from the government and violation of three sections of the federal espionage act.

"I am not guilty of any of the counts against me," Ellsberg told U.S. District Court Judge W. Matt Byrne Jr.

Anthony Joseph Russo Jr., 34, a codefendant with Ellsberg in the 15-count indictment, refused to plead on advice of his attorney. Judge Byrne entered a plea of innocent to four charges of conspiracy and receiving the documents.

The 15-count indictment that superseded a previous one-count indictment of Ellsberg was issued by a federal grand jury here last Wednesday. Ellsberg, who has admitted making most of the Pentagon Papers available to The New York Times and other newspapers, is charged with stealing, concealing and communicating government and national defense documents.

Ellsberg and Russo were col-

leagues at the Rand Corp. at Santa Monica, Calif.

Judge Byrne set March 7 as the date for beginning a joint trial of Ellsberg and Russo. But he said the trial could be postponed to April 10 if Leonard Boudin, Ellsberg's chief attorney, is still involved in the upcoming conspiracy trial of the Rev. Phillip Berrigan and seven others in Harrisburg, Pa. Boudin and another defense attorney, Charles Nes-son, represent Egbal Ahmad, a codefendant in the Harrisburg case.

Attorneys for both Ellsberg and Russo unsuccessfully attempted to make discovery motions before the court. Boudin told the court, "I will oppose any government motion to dismiss the first indictment in favor of the second," because of what he contended was illegal disclosure of the sealed indictment last week in Washington.

Boudin said he expects to call "government witnesses and others," a process that might take several days. Judge Byrne said a hearing on the dismissal motion would be held March 6.

Russo's attorney, Michael

Balaban, said, "I have a serious and substantial question as to whether Mr. Russo can be subjected to prosecution because of his immunity grant."

Last August, Russo was granted immunity from prosecution and ordered to testify before a grand jury. He refused and spent 47 days in jail for civil contempt of court. Later he agreed to testify, and his attorneys are now arguing this makes him immune from prosecution on the charges in the new indictment.

Byrne will hear Russo's motion on Jan. 28.

Former New York Republican Sen. Charles E. Goodell was introduced to Judge Byrne as "special counsel" to Ellsberg. Goodell said he would seek admission to the California bar.

The former senator did not address the court, but later issued a statement calling the indictment "a crazy quilt of new charges." He said in the statement that the indictment charges Ellsberg and Russo "with stealing the truth and telling it to the American people."

Tolson \_\_\_\_\_  
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Mohr \_\_\_\_\_  
Bishop \_\_\_\_\_  
Miller, E.S. \_\_\_\_\_  
Callahan \_\_\_\_\_  
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Holmes \_\_\_\_\_  
Gandy \_\_\_\_\_

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Washington Post Times Herald \_\_\_\_\_  
Washington Daily News \_\_\_\_\_  
Evening Star (Washington) \_\_\_\_\_  
Sunday Star (Washington) \_\_\_\_\_  
Daily News (New York) \_\_\_\_\_  
Sunday News (New York) \_\_\_\_\_  
New York Post \_\_\_\_\_  
New York Times \_\_\_\_\_  
Daily World \_\_\_\_\_  
The New Leader \_\_\_\_\_  
The Wall Street Journal \_\_\_\_\_  
The National Observer \_\_\_\_\_  
People's World \_\_\_\_\_

Date 1-5-71

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United Press International

**Daniel Ellsberg and his wife, right, and Anthony J. Russo and Katherine Barkley, left, make their way through a crowd as they leave federal court in Los Angeles.**



Tolson \_\_\_\_\_  
 Felt \_\_\_\_\_  
 Rosen \_\_\_\_\_  
 Mohr \_\_\_\_\_  
 Bishop \_\_\_\_\_  
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 Walters \_\_\_\_\_  
 Soyars \_\_\_\_\_  
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 Holmes \_\_\_\_\_  
 Gandy \_\_\_\_\_

## Ellsberg trial set March 7

LOS ANGELES (UPI) — Daniel Ellsberg pleaded innocent today to federal charges stemming from new indictments in the leak of the secret "Pentagon papers" and trial was scheduled for March 7. He had previously been charged with

illegal possession of the papers detailing decisions in the Vietnam war, but a more severe indictment was returned Dec. 30 including conspiracy charges that multiplied the maximum possible penalty against him from 20 years in prison to 115.

*Shaw*  
*Miller*  
*Ellsberg*

The Washington Post \_\_\_\_\_  
 Times Herald \_\_\_\_\_  
 The Washington Daily News 1  
 The Evening Star (Washington) \_\_\_\_\_  
 The Sunday Star (Washington) \_\_\_\_\_  
 Daily News (New York) \_\_\_\_\_  
 Sunday News (New York) \_\_\_\_\_  
 New York Post \_\_\_\_\_  
 The New York Times \_\_\_\_\_  
 The Daily World \_\_\_\_\_  
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 The Wall Street Journal \_\_\_\_\_  
 The National Observer \_\_\_\_\_  
 People's World \_\_\_\_\_

Date 1-4-72

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 170 JAN 18 1972

50 JAN 18 1972



(Mount Clipping in Space Below)

# Hub chitchat raises specter of conspiracy

By Curt Matthews  
Special from St. Louis Post-Dispatch

WASHINGTON — The talk at some holiday cocktail parties in Boston, Washington and Los Angeles was a bit guarded this season. Idle chitchat reportedly was getting expensive.

The stories of Dun Gifford and Richard Falk are making the rounds.

Gifford, a Boston attorney, plays tennis and is otherwise friendly with persons the Federal Bureau of Investigation suspects of stealing the Pentagon papers, the secret government documents that show that Lyndon B. Johnson misled the American public

about United States involvement in the Vietnam war.

Some of Gifford's acquaintances say that the FBI became interested in him after he made an off-hand remark at a cocktail party last summer. Since then Gifford reportedly has run up \$5000 in legal expenses resisting the efforts of the FBI to get him to talk before a grand jury.

Falk, a Princeton University pro-

fessor who says he has a "trivial relationship" with the matters of interest to the Boston grand jury probing the publication of the Pentagon Papers, says his legal fees are nearly \$10,000 so far.

Why don't these men, if they have nothing to hide, simply say what they know to the grand jury and be done with it? Perhaps they have not followed that easy — and much less expensive — course of action because as lawyers they are sophisticated enough to sense the danger of appearing before a grand jury with conspiracy on its collective minds.

Mr. Tolson \_\_\_\_\_  
Mr. Felt \_\_\_\_\_  
Mr. Rosen \_\_\_\_\_  
Mr. Mohr \_\_\_\_\_  
Mr. Bishop \_\_\_\_\_  
Mr. Miller, E.S. \_\_\_\_\_  
Mr. Callahan \_\_\_\_\_  
Mr. Casper \_\_\_\_\_  
Mr. Conrad \_\_\_\_\_  
Mr. Dalbey \_\_\_\_\_  
Mr. Cleveland \_\_\_\_\_  
Mr. Ponder \_\_\_\_\_  
Mr. Bates \_\_\_\_\_  
Mr. Wolkart \_\_\_\_\_  
Mr. Walters \_\_\_\_\_  
Mr. Soyars \_\_\_\_\_  
Tele. Room \_\_\_\_\_  
Miss Holmes \_\_\_\_\_  
Miss Gandy \_\_\_\_\_

(Indicate page, name of newspaper, city and state.)

1 THE BOSTON GLOBE  
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TRAVELER  
BOSTON, MASS.

THE BOSTON RECORD  
AMERICAN  
BOSTON, MASS.

Date: 1/3/72  
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Author: Curt Matthews  
Editor: Thomas Winship  
Title: MC LEK

NATIONALITIES  
INTELLIGENCE

Character: Espionage  
or  
Classification: 65-5236  
Submitting Office: Boston

☐ Being Investigated

65-74060-A

NOT RECORDED  
170 JAN 18 1972

59 JAN 18 1972

John file



The Department of Justice refuses to say what any of the several grand juries currently at work around the country have under investigation. However, by the nature of the witnesses subpoenaed and the government prosecutors involved, it has become common knowledge that grand juries in Boston and Los Angeles are probing the possibility of a conspiracy behind publication of the Pentagon Papers.

In perhaps a dozen other cities — Detroit, Seattle, Tucson, Washington and New York among them — grand juries are known to be at work on the matter of conspiracy underlying such antiwar events as the March 1 blast at the United States Capitol, the raiding of the draft board files, and the Mayday demonstrations last spring in Washington.

The danger in appearing before a grand jury looking for conspiracy lies not so much in the fairness or good intentions of the jury members, but rather the legal mushiness of the conspiracy law.

The elusive quality of conspiracy as a legal concept makes it possible for an individual to be charged with conspiracy even when the other conspirators are strangers whom he has never seen.

A grand jury looking for conspiracy stands as a peculiar double distortion of due process under the law and before the courts. Both the conspiracy law and the grand jury—an arm of the court—developed historically as elements of jurisprudence designed to protect individual citizens from malicious, arbitrary or unlawful prosecution.

In recent months, however, despite the Justice Department's reticence concerning its investigations of the antiwar movement, the public facts indicate, critics say, that the grand jury and the conspiracy law have been used with increasing frequency to trample individual rights of due process rather than protect them.

The conspiracy law originated in 1305 as an element of English common law. Originally it was aimed at preventing the crown from entering agreements with judges and prosecutors to gain indictments of persons opposed to the crown. The conspiracy, as envisioned by those who first promulgated the conspiracy law, would not arise among individual citizens, but rather among those in power who could void the rights of individuals simply by agreeing to throw them in jail.

Historically, the grand jury in the United States was originally intended to do essentially the same thing as the old conspiring as the old conspiracy law in England: Prevent malicious, arbitrary or unlawful prosecution.

Because the grand jury—by necessity to protect the innocent—must do its work behind closed doors, the public has little insight into how these panels function. However, the secrecy that surrounds the grand jury has in some cases made it vulnerable to abuse by overzealous prosecutors. It has been charged by some, including Frank J. Donner, director of the American Civil Liberties Union research project on government surveillance at Yale University, that many grand juries probing antiwar dissent had become nothing more than tools of the FBI.

"Federal prosecuting officials—who themselves have no power of subpoena—are using the coercive powers of the grand jury for police and intelligence purposes," say Donner and Eugene Cerruti, a New

York lawyer, writing in the current issue of The Nation magazine.

Surprisingly, Justice Department officials readily acknowledge a cozy relationship with the grand juries, despite longstanding traditions of theoretical separation between executive branch prosecutors and judicial branch jurists.

"While it's true that the grand jury is an arm of the court, the US attorney who initially requests that a grand jury be impaneled can guide that grand jury by the evidence he presents and the witness he calls," says Henry E. Petersen, deputy assistant attorney general for the Justice Department's Criminal Division.

Although grand jury proceedings are secret, the experience of several witnesses who have appeared before the antiwar conspiracy grand juries give some indication of how US attorneys are indeed "guiding" these people's panels.

Guy Goodwin, chief of the special litigation section of the Justice Department's Division for Internal Security, has become the department's "resident



'expert' on the suspected New Left conspiracy and has appeared before seven grand juries in the last year to ask questions of witnesses under subpoena.

In Tucson where the grand jury last year investigated the sale of dynamite that the FBI said was used in antiwar bombings on the West Coast, Goodwin reportedly asked one witness such questions as this:

"Describe for the grand jury every occasion during 1970 when you have been in contact with, attended meeting which were conducted by, or attended by, or been any place when any individual spoke whom you knew to be associated with or affiliated with Students for a Democratic Society, the Weathermen, the Communist Party or any other organization advocating revolutionary overthrow of the United States."

Goodwin clearly could not get away with such a question in a normal court of law.

However, a grand jury is not a normal court of law and witnesses appear without benefit of defense counsel. Goodwin who in recent months has made a reputation for himself by reason of his ~~vigor~~ and persistence in questioning grand jury witnesses, is free to do in the secrecy of

the grand jury room whatever his personal ethics and the mood of the grand jury permit him to do.

It is the subtle combination of conspiracy law mushiness and grand jury manipulation that throws fear into the Dun Giffords and Richard Falks. A grand jury being led by someone like Goodwin could turn and churn the facts until some scrap of relationship emerges or some pattern of circumstances fixes itself in the minds of the grand jury.



DUN GIFFORD  
... fights appearance



(Mount Clipping in Space Below)

Mr. Tolson \_\_\_\_\_  
Mr. Felt \_\_\_\_\_  
Mr. Rosen \_\_\_\_\_  
Mr. Mohr \_\_\_\_\_  
Mr. Bishop \_\_\_\_\_  
Mr. Miller \_\_\_\_\_  
Mr. Callahan \_\_\_\_\_  
Mr. Casper \_\_\_\_\_  
Mr. Conrad \_\_\_\_\_  
Mr. Dalbey \_\_\_\_\_  
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Mr. Ponder \_\_\_\_\_  
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Mr. Walters \_\_\_\_\_  
Mr. Soyars \_\_\_\_\_  
Tele. Room \_\_\_\_\_  
Miss Holmes \_\_\_\_\_  
Miss Gandy \_\_\_\_\_

# Ellsberg indicted on 12 new counts

By Lyle Denniston  
Washington Star

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The two men were charged by the Los Angeles jury with a conspiracy to steal and to distribute the secret Pentagon study on the origins of the Vietnam war. Several newspapers published stories on the documents, but so far no criminal charge has been aimed at a newspaper.

Twelve accusations were leveled at Ellsberg, 41, replacing a two-count indictment, involving possession of documents, the same jury issued against him on June 28 and to which he had pleaded innocent. Four charges were made against Russo, 35.

The new indictment raised significantly the risk of long-term imprisonment for Ellsberg. By making a series of overlapping charges and adding a conspiracy charge that would require less proof, the government increased its chances of winning a conviction.

The indictment returned Wednesday, but announced yesterday, charged Ellsberg and Russo under the General Federal Conspiracy Statute, as well as the general statute covering theft of government property, and the Federal Espionage Act.

The counts falling under the Espionage Act and the Conspiracy Act require for conviction proof at trial that the alleged offender intended or had "reason to believe" that the documents could be used "to the injury of the United States or to the advantage of any foreign nation."

(Indicate page, name of newspaper, city and state.)

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THE BOSTON HERALD  
TRAVELER  
BOSTON, MASS.

THE BOSTON RECORD  
AMERICAN  
BOSTON, MASS.

Date: 12/31/71  
Edition: Morning  
Author: Lyle Denniston  
Editor: Thomas Winship  
Title: MC LEK  
NATIONALITIES  
Character: INTELLIGENCE  
or Espionage  
Classification: 65-5236  
Submitting Office: Boston

☐ Being Investigated

65-74060-A

NOT RECORDED  
170 JAN 18 1972

59 JAN 18 1972

Jan 15  
file



Ellsberg has contended from the start of the controversy that he intended the disclosures to help, rather than to hurt, the United States.

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Ellsberg, holding tightly to his wife's hand, said of Russo's indictment that the government had "chosen to indict him on charges that are certainly false and that they know to be false."

Asked whether in view of the legal actions against him, he would do the same thing all over again, Ellsberg replied:

"Oh, no, I would have released the Papers two invasions earlier."

Russo surrendered in Federal court in Los Angeles later yesterday. After Russo declared, "I am virtually penniless," Judge Henry Pregerson reduced bail from \$100,000 to \$50,000 and released him on a personal recognizance bond. Arraignment was set for next Tuesday.

Russo told the judge:

"The act for which I have taken public responsibility is an act I am proud of. I feel very happy today that I will have a chance to speak in court."

Under the original charges, Ellsberg would have faced a maximum sentence of 20 years in prison and \$20,000 in fines if convicted. Conviction on all 12 charges in the new indictment would lead to a maximum sentence of 115 years and \$120,000 in fines:

If Russo were found guilty of all four charges against him, he could face a maximum sentence of 35 years and \$40,000 in fines.

Named in the indictment as part of a conspiracy but not accused of any crime were Vu Van Thai, 52, a former ambassador in Washington for South Vietnam, and Linda Sinay, 28, president of a Los Angeles advertising agency. The grand jury said they received some of the documents from Ellsberg.

Miss Sinay, reached by phone after the indictment was announced, expressed surprise, saying, "I thought this whole mess was over for me. Now I guess it's starting again."

She was a key witness at the grand jury hearings in Los Angeles last June. She said Ellsberg had paid her

\$150 to make copies of documents on the copying machine in her office, but she said she did not know the contents of the documents.

A Justice Department spokesman said Thai had left Washington and is now in Senegal. Before his service here, he had left South Vietnam after breaking with the late president, Ngo Dinh Diem, who was overthrown in 1963. Thai was named ambassador here in 1965, and served until January 1967.

Ellsberg is on the faculty of Massachusetts Institute of Technology. He disclosed last summer that he had given the Pentagon Papers to the newspapers.

Russo has been a probation counselor in Los Angeles. The indictment was based on actions which the jury alleged the two men took as colleagues at Rand Corp., the defense research "think tank" in Santa Mo-

nica, Calif. that had custody of the pentagon study.

Earlier this year, Russo was jailed for 47 days for contempt when he refused to answer questions before the grand jury. He was released by a Federal judge after the Justice Department refused to go along with an order to permit Russo to make public the secret transcript of any testimony he would give before the jury.

The Los Angeles jury and another in Boston are continuing their investigation of the means by which the classified documents were turned over to the press.

The Supreme Court ruled on June 30 that the government could not stop newspapers from writing stories about the documents has never ruled out the possibility of criminal prosecution of the newspapers now that the stories have appeared.





**DENIAL** — Daniel Ellsberg holds his wife's hand as he tells news conference in New York that government's new charges against him are "false." (AP)



(Mount Clipping in Space Below)

# Ellsberg Charges Widened

LOS ANGELES (UPI) — A federal grand jury re-indicted Dr. Daniel Ellsberg yesterday on serious new charges of stealing the top secret Pentagon papers, and also indicted a former colleague of his at the Rand Corp.

The sealed, 15-count indictment greatly increased the scope of the charges against Ellsberg, and for the first time accused Anthony J. Russo, 35, of participating in the conspiracy.

Russo, now employed as a probation officer, surrendered in federal court here later in the day.

He was released on his own recognizance on \$50,000 bond, and was ordered to appear next week to enter a plea.

Russo spent 47 days in jail for civil contempt when he refused to testify before a grand jury investigating how parts of the 47-volume classified study of U.S. involvement in the Vietnam War fell into the hands of newspapers.

Later, Russo agreed to testify if his transcript was made public, but the government declined to go along with the plan.

Mr. Felt \_\_\_\_\_  
Mr. Rosen \_\_\_\_\_  
Mr. Mohr \_\_\_\_\_  
Mr. Bishop \_\_\_\_\_  
Mr. Miller, FS \_\_\_\_\_  
Mr. Callahan \_\_\_\_\_  
Mr. Casper \_\_\_\_\_  
Mr. Conrad \_\_\_\_\_  
Mr. Dalbey \_\_\_\_\_  
Mr. Cleveland \_\_\_\_\_  
Mr. Ponder \_\_\_\_\_  
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Mr. Wolkart \_\_\_\_\_  
Mr. Walters \_\_\_\_\_  
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Author:  
Editor: John Herbert  
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Classification: 65-5236  
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☐ Being Investigated

65-74060-A

NOT RECORDED  
170 JAN 18 1972

59 JAN 18 1972

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Ellsberg, 40, a senior research fellow at the Massachusetts Institute of Technology who publicly acknowledged he was responsible for the original Pentagon Papers leak to The New York Times, has been Free on \$50,000 bond since his original indictment June 28.

On Wednesday night, Ellsberg defended the study in New York, before a panel of Harvard University historians at the American Historical Association who charged that as a history, it was incomplete and of poor quality.

Ellsberg said in New York that new indictment did not surprise him. "I know the Boston (U.S.) attorney's office has been working on me," he said. "So obviously another indictment was not another surprise."

In a news conference yesterday in New York, Ellsberg said he would plead not guilty to the new indictment. "I stole nothing, I did not commit espionage and I am not aware of violating any criminal statute."

**HE CHARGED** the indictment, from what he knew of reading about it in the press, contained "false charges," but his attorney, Leonard Boudin, cut him off from replying to specific charges before they had seen the indictment.

Ellsberg, who held hands with his wife, Patricia, said, "This Christmas present to me is nothing compared to the Christmas present the President (Nixon) has given American fliers recently shot down over North Vietnam."

Ellsberg also denied that Russo had refused to testify before the grand jury. Russo had offered to testify in public, he said. The government's insistence that the grand jury session be in secret was evidence of "the government's commitment to deception," Ellsberg said.

The new, superseding indictment, announced by the office of Atty. Gen. John N. Mitchell, was returned in Los Angeles Wednesday but was not opened until yesterday, presumably because of expectations that Russo would be arrested in the meantime.

Ellsberg originally was indicted on two counts of possessing government documents and converting them to his own use, punishable by a maximum penalty of 20 years imprisonment and a \$20,000

fine. No trial had been scheduled.

**THE NEW INDICTMENT** accuses him of 11 federal crimes plus conspiracy, for which he could receive a maximum 115-year prison sentence and a \$120,000 fine if convicted.

The new charges include stealing, distributing and refusing to return classified Defense Department documents obtained from Rand, and illegally keeping national defense papers in violation of the 1940 Espionage Act.

Russo's three counts, plus a charge of conspiracy, carry a maximum penalty of 35 years in prison and a \$45,000 fine.

Named as co-conspirators but not under indictment were Vu Van Thai, 52, a former South Vietnamese ambassador to Washington in 1965 who allegedly received one copy of the Pentagon study, and Mrs. Linda Sinay, 28, a Los Angeles advertising firm employe who helped make Xerox copies of the papers.

Ellsberg was listed in two counts as giving Thai and Mrs. Sinay copies of various parts of the 47-volume study, all but the last four volumes of which were declassified by the Pentagon after stories on the study was published with

Supreme Court assent in several U.S. newspapers.

**THAI**, now believed to be with a United Nations river development project in Dakar, Senegal, was said in the indictment to have received from Ellsberg one volume of the study entitled "Settlement of the Conflict — Negotiations, 1967-1968, History of Contacts."

A Justice Department spokesman said the new indictments "are not an indication of whether there will or will not be any more indictments."

The Justice Department sued the New York Times and

the Washington Post unsuccessfully to prevent further publication of the Pentagon study.

The Supreme Court voted 6 to 3 in favor of the newspapers, which charged the government with an unconstitutional attempt at "prior restraint" on publication of news.





**SURRENDERS** — Anthony J. Russo, indicted with Ellsberg.



Wagner  
C. P. Brennan

(Mount Clipping in Space Below)

Mr. Tolson	_____
Mr. Felt	_____
Mr. Rosen	_____
Mr. Mohr	_____
Mr. Bishop	_____
Mr. Miller	_____
Mr. Callahan	_____
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Russo has been a probation counselor in Los Angeles. The indictment was based on actions which the jury alleged the two men took as colleagues at Rand Corp., the defense research "think tank" in Santa Mo-

nica, Calif. that had custody of the pentagon study.

Earlier this year, Russo was jailed for 47 days for contempt when he refused to answer questions before the grand jury. He was released by a Federal judge after the Justice Department refused to go along with an order to permit Russo to make public the secret transcript of any testimony he would give before the jury.

The Los Angeles jury and another in Boston are continuing their investigation of the means by which the classified documents were turned over to the press.

The Supreme Court ruled on June 30 that the government could not stop newspapers from writing stories about the documents has never ruled out the possibility of criminal prosecution of the newspapers now that the stories have appeared.





**DENIAL** — Daniel Ellsberg holds his wife's hand as he tells news conference in New York that government's new charges against him are "false." (AP)

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DENIAL 12-31 NX  
 WITH ELLSBERG 048A  
 BY RICHARD SISK  
 NEW YORK (UPI)--DR. DANIEL ELLSBERG, INDICTED ANEW BY A FEDERAL GRAND JURY IN CONNECTION WITH THE PENTAGON PAPERS HE HAS ACKNOWLEDGED LEAKING TO THE PRESS, SAID THURSDAY HE WAS "NOT AWARE OF VIOLATING ANY CRIMINAL STATUTE."

"I CAN'T REGRET HAVING DONE MY DUTY AS A CITIZEN," ELLSBERG TOLD A NEWS CONFERENCE SHORTLY AFTER THE NEW INDICTMENTS WERE RETURNED IN LOS ANGELES. DURING THE NEWS CONFERENCE, HE HELD HANDS WITH HIS WIFE PATRICIA.

AFTER SEVERAL NEWSPAPERS PUBLISHED THE PENTAGON PAPERS--A CLASSIFIED PENTAGON HISTORY OF AMERICAN INVOLVEMENT IN VIETNAM--THE GRAND JURY CHARGED ELLSBERG WITH CONVERTING GOVERNMENT PROPERTY TO HIS OWN USE AND ILLEGALLY POSSESSING GOVERNMENT DOCUMENTS.

THURSDAY'S 12-COUNT INDICTMENT WAS MORE SEVERE, CHARGING HIM WITH CONSPIRACY, THEFT OF GOVERNMENT PROPERTY AND VIOLATION OF ESPIONAGE LAWS.

ANTHONY J. RUSSO, WHO ALSO WAS NAMED IN THURSDAY'S INDICTMENT AND HAS SPENT 47 DAYS IN JAIL ON CONTEMPT CHARGES FOR REFUSING TO TESTIFY BEFORE THE GRAND JURY, ACTUALLY HAD VOLUNTEERED TO TESTIFY IN PUBLIC, BUT NOT IN A CLOSED-DOOR SESSION, ELLSBERG SAID.

"I STOLE NOTHING, I DID NOT COMMIT ESPIONAGE AND I AM NOT AWARE OF VIOLATING ANY CRIMINAL STATUTE," SAID ELLSBERG, 40, A RESEARCHER AT THE MASSACHUSETTS INSTITUTE OF TECHNOLOGY.

HE SAID THE CHARGES AGAINST HIM WERE "FALSE," AND CALLED THEM "ONE MORE EXAMPLE OF THE GOVERNMENT'S COMMITMENT TO NON-TRUTH."

"MY HUSBAND IS PROFOUNDLY COMMITTED TO ENDING THE WAR," MRS. ELLSBERG SAID. THE POSSIBILITY OF HIS BEING SENT TO PRISON WAS "SOMETHING YOU HAVE TO LIVE WITH," SHE ADDED. 65-74060-A

"THIS CHRISTMAS PRESENT TO ME (THE INDICTMENT) IS NOTHING COMPARED TO THE CHRISTMAS PRESENT THE PRESIDENT HAS GIVEN AMERICA RECENTLY SHOT DOWN OVER NORTH VIETNAM," ELLSBERG SAID. HE WAS REFERRING TO THE FIVE DAYS OF LARGE-SCALE BOMBING OVER NORTH VIETNAM, WHICH ENDED THURSDAY. U.S. SPOKESMEN SAY THREE AMERICAN PLANES WERE SHOT DOWN DURING THE BOMBING; HANOI SAYS IT DOWNED 19.

ANY PRISON SENTENCE HE MIGHT RECEIVE, ELLSBERG SAID, IS NOTHING COMPARED WITH THE PENALTY PAID BY THOSE KILLED DURING THE WAR.

"IT WOULD BE PRESUMPTUOUS OF ME TO PITY MYSELF," ELLSBERG SAID.

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WASHINGTON CAPITAL NEWS SERVICE

50 JAN 13 1972

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C.D. Brennan

UPI-140

(ELLSBERG)

LOS ANGELES--ANTHONY J. RUSSO JR., INDICTED ALONG WITH DR. DANIEL ELLSBERG ON SERIOUS NEW CHARGES OF STEALING THE TOP SECRET PENTAGON PAPERS, SURRENDERED IN FEDERAL COURT HERE TODAY. RUSSO, WHO FBI AGENTS SAID HAD BEEN ELUDING THEM, APPEARED BEFORE U.S. DISTRICT COURT JUDGE HARRY PRAGERSON A FEW HOURS AFTER THE SEALED, 15-COUNT INDICTMENT WAS ANNOUNCED IN WASHINGTON.

BAIL WAS SET AT \$100,000, BUT ATTORNEYS FOR THE 35-YEAR-OLD FORMER RAND CORP. ASSOCIATE OF ELLSBERG ATTEMPTED TO HAVE THE BOND REDUCED.

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42 JAN 13 1972

WASHINGTON CAPITAL NEWS SERVICE

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# Federal Grant

*A Commentary*  
*By Nicholas von Hoffman*

In the course of the last year or so federal grand juries have been at work trying to get the goods on radicals, liberals, clergymen and allied white trash in the following cities: Harrisburg, Pa., Brooklyn, Boston, Detroit, Seattle, Manhattan, Kansas City, Cleveland, Camden, N.J., Wilmington, Del., San Francisco, Tucson, Ariz., and Los Angeles, where they've had three grand juries.

In some instances the work of these grand juries has been defensible, indicting people for unlawful transportation of explosives, burning ROTC buildings and generally carrying on in ways that even those of us who may sympathize with their cause find a wee bit hard to justify. However, the bulk of these grand jury operations seem to have no other purpose but to harass, intimidate and make life miserable for people who've found disfavor with Assistant Attorney Robert C. Mardian and those other wet-skinned, hairless fellows born without sebaceous glands in the pouches and follicles of the Justice Department's Internal Security Division.

Take the case of Dun Gifford, the publisher of *The Morning News*, a new, Washington-based national newspaper that's scheduled to have a month's trial run and shakedown cruise next April. Gifford, a former administrative assistant to Teddy Kennedy, is an acquaintance of Daniel Ellsberg, the Pentagon Paper hanger. If that wasn't bad enough, Gifford is a friend of Neil Sheehan, *The New York Times* man who broke the story.

His connection with these people was purely social, but, be that as it may, he was subpoenaed to appear before a federal grand jury in Boston. An honorable man, he's refused to testify, with the result that since July when the FBI first paid him a visit he's run up a \$5,000 lawyer's bill in resisting the government's pressure to go behind doors and satisfy Mardian's desire

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File

The Washington Post Times Herald B-1

The Washington Daily News \_\_\_\_\_

The Evening Star (Washington) \_\_\_\_\_

The Sunday Star (Washington) \_\_\_\_\_

Daily News (New York) \_\_\_\_\_

Sunday News (New York) \_\_\_\_\_

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The Wall Street Journal \_\_\_\_\_

The National Observer \_\_\_\_\_

People's World \_\_\_\_\_

Date 12-27-71

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for salaciously ungermane bits of chit-chat about his friends.

Gifford believes that he was called because the FBI tapped his phone and overheard him making dates to play tennis with other equally dangerous types. One of Gifford's friends thinks it was a remark Gifford made at a cocktail party that put the creeps onto him.

Gifford, however, is no lone martyr. He says the FBI has bothered "literally hundreds of people in Cambridge" where he lives. Or take the case of Richard Falk, a Princeton University professor who's in the same fix as Gifford. "It's so absurd because I was so trivially related to what the press said was the purpose of the grand jury inquiry. I was out of the country when the Pentagon Papers happened," says Falk, who is nonetheless stuck with a \$10,000 law bill. "People don't understand the magnitude of the expenses, but you can't escape them. I'm a lawyer myself and I

couldn't have avoided going to jail without assistance. If you don't have either personal or economic resources, you don't have access to the judicial system."

Falk's experience illustrates the Fed's M.O., and how, if you don't talk to the FBI, they get back at you by dragging you in front of a grand jury, a nervous-making experience for most of us honest citizens, it being only the crooks who have the nerve and the know-how to deal with it:

"They came to my house one day in the summer without any prior indication. They said they wanted to talk to me about a fellow named Ellsberg. I told them I thought what he did was right and in the national interest but that I would not discuss it beyond that. They said, 'OK, only general questions,' and then they asked, 'Do you have the Pentagon Papers in your possession? Are they circulating through the New Left?'

## Poster

I asked, 'What is the New Left?' and they said, 'You know.'"

That little conversation cost Falk \$10,000 in legal fees, but both he and Gifford are in relatively good shape. Not so a free-lance writer of considerable repute who lives in another city and was caught in Mardian's webs and vines. This poor guy doesn't have much money and must work all the time to keep the Phase II landlord happy. His name is being withheld because his case is still pending, but it's already cost him \$2,000 he can ill afford and much time that he needs for his work. He's in a state of fury close to physical assault. "What right do they have to muck around with my life like this? I haven't committed any crime; I haven't witnessed one. Why do I have to go through this demeaning and exhausting business? The grand jury was designed to be a means for protecting the innocent and they're turning it into an instrument of the government."

On the other side of the continent the government has been using the grand jury on the anti-draft movement in Los Angeles. There they've gone past such primitive gestures as draft card burning.

Instead of dramatic monkeyshines, they've assembled a panel of 75 lawyers and another medical panel of doctors, dentists, podiatrists, psychiatrists and optometrists. These professional people use the technical regulations of the Selective Service System to keep young men out of the armed forces. There's nothing illegal or unethical about it. They're simply doing for the draft bait and the cannon fodder what the tax lawyers do for their clients . . . to wit, get the best possible break that the law allows.

According to William G. Smith, the chairman of the lawyers' panel, their work has been so successful that, "Any kid in California who wants to stay out can stay out." He claims that for every young man drafted in his area they have to send out induction



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## COMMENT

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# *Federal Juries: Getting the Goods*

COMMENT, From B1

notices to six others, as compared to a 2-to-1 ratio nationwide. His claim is given validity by the fact that the government has had three grand juries and hundreds of FBI agents trying to break the operation up. It was for being part of this that the dentist, Dr. Bernard Bender, was taken off his pleasure boat in the Caribbean and brought back to trial on 13 counts of putting braces on young men's teeth to keep them out of the army. (He was acquitted on seven counts with the jury unable to decide on the rest, so he'll be tried again.)

Smith reports his fellow lawyers have been harassed by having FBI agents go out and interview their clients and pull their clients into the grand jury room. This has resulted in few trials and fewer convictions, although, again, the expenses have been high, but there are so many rich kids from Beverly Hills whose families'll pay stiff legal fees to beat the draft that the money is there to fight back and do it rather successfully. With understandable pride, he points out that no one in Southern California, no one at all, has been drafted in the past month.

Still, the government doesn't do this to the tax lawyers or the legal finaglers around Washington sniffing special deals for their clients at the regulatory agencies. They don't get grand juried, or telephone tapped or interrogated by the FBI. Not because they're more legal, only more acceptable.

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REC-11

# U.S. Attorney in L.A. Reported Facing Ouster

Los Angeles Times

Robert L. Meyer, U.S. Attorney in Los Angeles, is being forced out of office, administration sources said yesterday.

Meyer's letter of resignation is expected to be announced by the White House in the next few days, but with no indication that the move is other than voluntary.

Sources in and out of the Justice Department differed over the reasons for the action.

Some cited specific cases, such as Meyer's refusal to sign the indictment of Daniel Ellsberg for unauthorized possession of the secret Pentagon papers. Others said the decision to force Meyer out stemmed from a long list of complaints about his asserted lack of cooperation and "abrasive nature."

A successor has already been selected, the sources said, and will take office at the start of the year, subject to Senate confirmation of his appointment.

When Meyer's name did not appear on the indictment of Ellsberg by a federal grand jury in Los Angeles, Justice Department officials said it was of no significance and reflected only the fact that he had no direct involvement in the case.

Because of the discretion in prosecutive and settling cases that a U.S. attorney enjoys, particularly in a populous area such as Los Angeles. It has often been a stepping stone to higher judicial or political office.

*C. D. Brandon*  
*W. J. [unclear]*

The Washington Post \_\_\_\_\_  
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REC-11

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UPI-85 *Daniel*

ADD 2 ELLSBERG, WASHINGTON

ELLSBERG WAS CHARGED WITH STEALING AND DISTRIBUTING GOVERNMENT DOCUMENTS WORTH MORE THAN \$100 AND RUSSO WITH RECEIVING. BOTH WERE CHARGED UNDER THE ESPIONAGE ACT WITH ACQUIRING AND ILLEGALLY RETAINING NATIONAL DEFENSE DOCUMENTS.

THE DOCUMENTS--THE CELEBRATED PENTAGON PAPERS AS THEY BECAME KNOWN -- WERE BASED ON A STUDY OF THE ORIGINS AND THE PROGRESS OF THE VIETNAM WAR INITIATED BY ROBERT S. MCNAMARA BEFORE HE STEPPED DOWN AS DEFENSE SECRETARY IN 1968.

THE PAPERS WERE CITED BY CRITICS OF THE WAR AS SUPPORTING THEIR ARGUMENT THAT THE UNITED STATES NEVER SHOULD HAVE BECOME SO EMBROILED IN VIETNAM.

SUPPORTERS OF VIETNAM POLICY ARGUED THAT THE DOCUMENTS REFLECTED AN INCOMPLETE STORY OF WHAT HAPPENED.

IN THE NEW INDICTMENT, ELLSBERG WAS LISTED IN TWO COUNTS OF GIVING THAI AND MRS. SINAY COPIES OF DIFFERENT PARTS OF THE 47-VOLUME STUDY. THE INDICTMENT REFERRED TO HIS ALLEGED POSSESSION, HOWEVER, ONLY OF 18 VOLUMES OF "A 38-VOLUME DEPARTMENT OF DEFENSE STUDY TITLED 'UNITED STATES-VIETNAM RELATIONS 1945-1967.'"

THE GRAND JURY SAID THAI WAS GIVEN ONE VOLUME TITLED "SETTLEMENT OF THE CONFLICT--NEGOTIATIONS, 1967-1968, HISTORY OF CONTACTS" BY ELLSBERG.

AT THE TIME, THAI APPARENTLY WAS A CONSULTANT TO THE ADMINISTRATOR OF THE UNITED NATIONS DEVELOPMENT PROGRAM. HE IS NOW BELIEVED TO BE WITH A U. N. RIVER DEVELOPMENT PROJECT IN DAKAR, SENEGAL.

A JUSTICE DEPARTMENT SPOKESMAN SAID THE NEW INDICTMENT WAS "NOT AN INDICATION OF WHETHER THERE WILL OR WILL NOT BE ANY MORE INDICTMENTS" IN THE CASE.

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WASHINGTON CAPITAL NEWS SERVICE

*File 3 ERH*  
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 [unclear]*

*Cop [unclear]*

UPI-79

*Daniel*  
 ADD 1 ELLSBERG, WASHINGTON (UPI-78)

THE NEW INDICTMENT DISCLOSED THAT VU VAN THAI, 52, A FORMER SOUTH VIETNAMESE AMBASSADOR TO THE UNITED STATES IN 1965, GOT ONE VOLUME OF THE STUDY. IT NAMED THAI AND MRS. LINDA SINAY, 28, A LOS ANGELES ADVERTISING WOMAN, WHO HELPED ZEROX THE PAPERS AS UNINDICTED CO-CONSPIRATORS.

THE JUSTICE DEPARTMENT WOULD NOT SAY IF EITHER THAI OR THE WOMAN HAD TESTIFIED BEFORE THE GRAND JURY.

ELLSBERG, A PROFESSOR AT THE MASSACHUSETTS INSTITUTE OF TECHNOLOGY (MIT) WAS ORIGINALLY INDICTED ON TWO COUNTS OF POSSESSING GOVERNMENT DOCUMENTS AND CONVERTING THEM TO HIS OWN USE FOR WHICH HE COULD HAVE RECEIVED A MAXIMUM PENALTY OF 20 YEARS AND A \$20,000 FINE.

THE NEW SUPERCEDING INDICTMENT, ANNOUNCED BY THE OFFICE OF VACATIONING ATTORNEY GENERAL JOHN N. MITCHELL, ACCUSES HIM OF 11 FEDERAL CRIMES PLUS CONSPIRACY FOR WHICH HE COULD RECEIVE A MAXIMUM 115-YEAR PRISON SENTENCE AND A \$120,000 FINE. RUSSO FACES A MAXIMUM 35 YEARS IN PRISON AND A \$45,000 FINE IF CONVICTED ON THREE SUBSTANTIVE COUNTS AND ONE OF CONSPIRACY.

BOTH MEN WERE CHARGED WITH CONSPIRING FOR 18 MONTHS FROM MARCH, 1969 TO SEPTEMBER, 1970 TO STEAL CLASSIFIED GOVERNMENT DOCUMENTS FROM RAND CORP. TO DISTRIBUTE THEM TO UNAUTHORIZED PERSONS, AND TO ILLEGALLY POSSESS THEM AND REFUSE TO SURRENDER THEM TO THE GOVERNMENT.

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WASHINGTON CAPITAL NEWS SERVICE

55 JAN 5 1972



(Mount Clipping in Space Below)

Mr. Tolson \_\_\_\_\_  
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 Miss Holmes \_\_\_\_\_  
 Miss Gandy \_\_\_\_\_

(Indicate page, name of newspaper, city and state.)

14

THE BOSTON GLOBE  
 BOSTON, MASS.

THE BOSTON HERALD  
 TRAVELER  
 BOSTON, MASS.

THE BOSTON RECORD  
 AMERICAN  
 BOSTON, MASS.

Date: 12/15/71

Edition: AM

Author:

Editor: THOMAS WINSHIP

Title: McLEK

Character:

or

Classification: 65-5236

Submitting Office: Boston

☐ Being Investigated

## Bravos for Neil Sheehan

There is probably not a newsman anywhere who could not use the \$5000 Drew Pearson Prize for investigative reporting that has just and justly been awarded Neil Sheehan of the New York Times for his work in dynamiting the Pentagon Papers out of the depths of classification in which the Government, afraid of exposure in the Vietnam adventuring, had confined them.

But neither is there a newsman anywhere but honors Mr. Sheehan's right to the award which he accepted, not in his own honor (which indeed it is), but in honor of the obligations he and all of his fellow craftsmen owe to a public which depends on them and trusts them.

Mr. Sheehan is one of many whom the Federal government now seeks to indict for a trumped up felony that could mean years of imprisonment. It was a risk he and they took willingly in the performance of a duty which honor permits no honest newsman to shirk. Said Mr. Sheehan:

"Those who hold the view" (that the First Amendment is merely a license which the Federal government can take away at will) "will learn that journalists who take their work seriously will reject it regardless of

the personal consequences . . . In writing the First Amendment, the Founding Fathers imposed upon us the duty . . . to assert the right of the American people to know the truth and to hold those who govern them to account. In the pursuit of this responsibility, some of our colleagues, a number of them my friends, have given their lives in Vietnam. No one intimidated them and no one is going to intimidate us . . . Words like theft and treason have a certain tinny ring in courtrooms and from political platforms . . . But if to report now be called theft, and if to publish now be called treason, then so be it. Let God give us the courage to commit more of the same."

There is a Patrick Henry ring to this that should give pause to the grand jurors in Boston and elsewhere whom the Justice Department has reportedly been attempting to pressure into indicting Mr. Sheehan and others in addition to the already indicted Dr. Daniel Ellsberg. Honorable newsmen everywhere now echo and always will echo Mr. Sheehan's challenge and his prayer that they may never falter in the courage to do what duty to free government demands of them.

65-74060-A

170 JAN 4 1972

55 JAN 10/2





**Joseph Kraft**

# A Year of Non-Events

IN AMERICA THE angel of progress moves by stealth. Since taboos prevent talk about what is truly forward motion, the big spotlights almost always search out what is unimportant.

The supreme case in point is the year just ending. 1971 was the year of highly publicized non-events which almost eclipsed from view change of far-reaching importance.

The biggest of the non-events was the Pentagon papers. Probably no development received more space in the press and more time on television and more earnest debate in Congress and the courts and around the dinner table.

But publication of the sensational secrets achieved no enduring result of consequence. The conduct of the war was not changed as a result. Public opinion, after a momentary stir, lapsed into a comatose torpor about Vietnam. Except for showing that the Supreme Court had more common sense than the Justice Department, even the legal proceedings proved nothing.

A second major non-event of the year was China. The admission to the United Nations, and the ping-pong, and the surprise visit of Henry Kissinger to prepare President Nixon's coming trip looked at the time like the stuff of history.

BUT CLOSER READING made it plain that the Chinese connection would do nothing to settle on-going problems in Vietnam or Formosa or with Russia and China. Then Peking's poor showing in the Indo-Pakistani war, and even more the severe leadership troubles, raised once again the fateful question that has shadowed Chinese history through modern times. It is still a question whether China really counts for very much in the world.

Another major non-event was the race for the Democratic presidential nomination. 1971 was supposed to be the year when candidates taking stronger stands on the issues and exerting more appeal to the voter would knock off the front-runner, Edmund Muskie.

As it turned out there was going and coming galore, and speculation to match. But when the year ended,

easy Ed Muskie was still way out front, and Sen. Hubert Humphrey and Mayor John Lindsay were crowding into the race only because it was now or never.

Behind the screen of these and other non-events, however, there took place developments of substantial consequences. A nice case in point because it reveals so much of the dynamics of self-bamboozlement was the Laotian offensive of last spring—the so-called Operation Lam Son.

To be sure, it was not, as billed, a successful military operation that did grave damage to the other side. That this country was simply that this country was simple not going to stand for losing any more men in ground combat. It was the decisive point of no-return—the time when even President Nixon finally had to abandon serious hope for a win in Vietnam.

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The Washington Post Times Herald A-11  
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An equally important development came in the international monetary field. Not because the Washington conference was, as Mr. Nixon claimed, "The most important ... in the history of the world." Rather because Mr. Nixon, without calling attention to the fact that he was reneging, ended once and for all the American obligation to convert dollar holdings into gold—thus making inevitable some form of managed international currency.

ANOTHER NICE EXAMPLE comes in the field where almost everybody had abandoned hope — passenger rail service. For years it was understood that service in this country could be brought up to the level prevailing in Europe, Russia and Japan only by nationalization. But nationalization was against the primeval law of American politics. Right?

Well, no. Not at least if you confuse everybody by calling the nationalized system AMTRAK. So what really happened when AMTRAK came into existence in 1971 was an historic turning point—the day when railroads began to be nationalized and decent passenger service entered the realm of the possible.

A similar development took place in the field of drugs. By all that is legal, possession of drugs—even of marijuana—is a crime. And the legal judgment is only an expression of the prevailing morality. Right?

What all this means—the lesson of 1971—is that things which are necessary, whether willed or not, somehow become possible. The prospect for future change in this country is truly large. Does anybody want to bet that wage and price controls, despite all the present talk of their temporary nature, become, next year, a regular feature of the peacetime economy?

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# A Madness For Secrecy

By William G. Florence

The author is a security expert who retired in May as deputy assistant for security and trade affairs in Air Force headquarters. Also a former Air Force major, he is now a security consultant to government contractors and to defense attorneys in the Daniel Ellsberg case.

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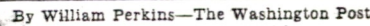
EVERY DAY THEY sit in the Pentagon, thousands of workers with rubber stamps marked "Confidential" and "Secret" and "Top Secret," and they stamp this paper and that, with little regard for what they are doing. It is a mass exercise in wish-fulfillment, a giant attempt to keep secret what is already public knowledge, what is bound to become widely known, or what is so trivial that it cannot possibly be of use to anyone.

In the process, the buying of toilet paper for some military men becomes a national secret. Purchases of paper clips and paint and long winter underwear can turn into guarded statistics. The purpose and dimensions of a new aircraft, long trumpeted in congressional hearings, remain, to the Pentagon's way of thinking, "Top Secret" matters. Literally millions of documents are needlessly classified alongside the relatively few—I would estimate from 1 to 5 per cent in the Pentagon—which must legitimately be guarded in the national interest.

## A Bizarre Exercise

The metal, tile-shaped pieces of ferrite developed privately by Conductron Corp. in Ann Arbor, Mich., "absorbs" radar signals. This distorts the plane's image on an enemy's radar screen.

This was no small task. The companies,



This was no small task. The companies,



best way to eliminate the leftovers, it found, was to ship the waste under guard to San Antonio, where it could be melted back to molten iron. The extra cost calculated by General Dynamics and the government: \$600,000.

This, however, was not how the dilemma was solved. Rather, federal security inspectors finally asked Air Force headquarters in Washington whether the "Confidential" marking had been necessary in the first place. The question came to me, and I received assurances from the office of John S. Foster, director of defense research and engineering, that there had never been any need for protecting the metal tiles. I spent the next 10 months trying to get the classification for the tiles canceled. It was finally dropped in September, 1970, after being in effect for about seven years.

But the Avionics Laboratory was able to retain the "Confidential" classification on Conductron's pending patent application. That classification, at last report, still was in effect.

### An Expensive Habit

THIS IS BY NO MEANS an isolated case. Guarding information that is already well known is something of a habit with many defense men. One officer at the Air Force's Aeronautical Systems Division in Ohio, for example, decided one day in late 1969 that the nation should keep a close watch on information about the new B-1 manned bomber. Mainly, he wanted to keep secret such details as the plane's purpose, its length and wing span, its take-off weight, how high it can fly, and what it looks like in a photograph.

I suppose this all would have been nice, except that it was absurd—these details had all been proclaimed for the world to hear while the Pentagon was pleading with Congress to authorize the bomber in the first place. The information had to be disclosed before a dime was approved.

But this did not deter the Aeronautical Systems officer. He insisted that the nation guard the information. So he stamped the instructions to the plane's contractor, North American Aviation, as "Secret," advising the company to keep these details under wraps.

North American, in July of 1970, forwarded some advice of its own. The initial cost for remodeling facilities and taking numerous other steps to comply with the "Secret" classification, it said, would be about \$1.2 million. This did not include similar measures and expenses that would be required by subcontractors and suppliers.

among other things, had to have special facilities to store all waste metal left from their work. The reason: The waste could not be destroyed by simple burning or shredding, the standard methods of getting rid of paper secrets. So it had to be hoarded.

From the mid-1960s until September, 1970, Conductron actually stored about 28,500 pounds of waste metal. At General Dynamics' Fort Worth, Tex., plant, where the tiles were fashioned to fit the plane's body, about 285 barrels of waste accumulated over this period. This was in addition to special guards at the plants, barriers erected to make sure nobody could get a hand on a grain of the metal, and other precautions required by the government for "Confidential" information. The overall extra cost for these measures was in the neighborhood of \$400,000.

The cost would have kept rising if General Dynamics did not begin to run out of storage space. The company was faced with the choice of either putting up an additional building to hide the waste or finding some way to destroy it. A destruction study was even conducted: The

Ind Billions of currently ret documents be read on television and broadcast to all of our potential enemies without any crime being committed, except perhaps to bore everyone to death. The point is that the indiscriminately applied security markings in themselves do not make anything subject to the espionage laws. That would be absurd. The legal tests are damage and intent to damage. It was on the damage test that the Supreme Court upheld the right of newspapers to publish from the Pentagon Papers, regardless of the "Top Secret" stamped on that vast study of U.S. decision-making on the Vietnam war.

### Threat of Punishment

**I**F BUREAUCRATS should not worry much about criminal prosecutions, they should and do worry about being punished administratively, as any boss punishes a worker, for what the government may consider a violation of its security bible. This constant threat of punishment hanging over the heads of Pentagon workers considerably reinforces the mania for classification.

Nightly and on weekends, security police prowl the Pentagon in search of any evidence that the commandments of Executive Order 10501 are not being heeded. In the mornings, those whose offices have been searched usually find on their desks a calling card from their service's security force. The Air Force's version of this greeting is:

"The USAF Security Force did not discover any improperly stored classified information during its check of this area."

More than once, though, the snoopers do find what is, to their strange way of thinking, a violation. One morning early this year, while searching a desk in Air Force headquarters, for example, they came upon some unclassified pages from a Rand Corporation document. The pages listed electronic equipment for six old aircraft, including the ancient B-58 bomber.

The security checkers felt the lists should have been classified and locked in a safe. It apparently made no difference to them that the Air Force had distributed the information throughout the world for years as unclassified. They believed the information should be guarded, and they carry considerable weight. The snoopers reported their finding to the employee's superior, who ordered the worker to forfeit a day's pay.

A similar incident occurred last year at TRW Systems, Redondo Beach, Calif., one of the more than 13,000 contractors cleared for access to classified information. (Hundreds of thousands of employees at the contractors' plants are forced to sign statements that they understand improper disclosure of classified information "may be punishable under federal criminal statutes," which is simply not true.) A TRW engineer there was charged by security enforcers with improper disclosure of the scheduled operational date for the Minuteman III missile, the booster for the multi-warhead MIRV system.

That was ridiculous. The June, 1970, date was known all over the Northwest, where the missile was being put into place, as well as all over the world. Such actions cannot be kept secret very long; they are self-revealing. Indeed, Air Force Secretary Robert Seamans shortly afterward publicly mentioned the Minuteman III date. Still, the engineer was punished by his company, which acted under threat of penalty by the government.

### Needed: Legislation

**T**HESE ARE ONLY TWO of thousands of cases each year in which government and private employees are charged with security violations, most of which have no bearing whatsoever on the defense interests of this country. (At the Pentagon, the security snoopers have even left their calling cards several times in press room typewriters used by newsmen.)

Considering the quate executive order, the intimidating manner and this overzealous enforcement, it is little wonder that defense workers have cultivated a mania for stamping "Secret" on everything.

If all this were not bad enough, President Nixon would now like to start a massive effort to declassify piles of old records that have already been declassified for more than 13 years. On Aug. 3, in the wake of the Pentagon Papers case, he asked Congress for an initial \$636,000 to "begin an immediate and systematic effort to declassify documents of World War II." The total cost for five years of reviewing a "substantial" portion of 160 million pages of records was put at \$6 million.

The intention is fine, but the fact is that the bulk of the Defense Department's World War II records were declassified or downgraded on Sept. 27, 1958, by DOD Directive 5200.9, which I wrote.

Even if that directive did not exist, a \$6 million drive to read all these musty records and cancel classification markings would be a vast waste of funds. It would be far easier and less costly to wait until the records are requested, and to physically cancel the markings when the papers are withdrawn.

But canceling ancient classifications, while it may have some political appeal, is not a very lasting solution to the problem. It would help if millions of later records were declassified, but that, too, would not really be an answer. What is needed is to declassify millions of current records, and to make sure, through tighter controls on secrecy-stamping, that more do not swiftly pile up.

At present, an executive branch committee—set up under Assistant Attorney General and Supreme Court nominee William Rehnquist—is developing recommendations for improving Executive Order 10501. But chances are slim that its proposals will get to the heart of the matter. It is seeking to eliminate some classification authority, such as that now held by the Department



# The Secrecy Binge

SECRETS, from Page C1

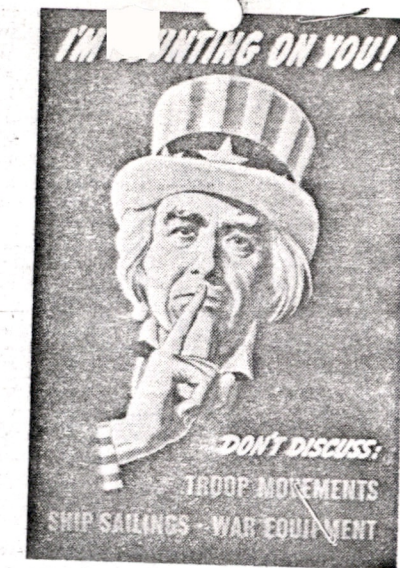
Luckily, this nonsense was halted before it went too far. The security adviser at the Aeronautical Systems Division, who had opposed the classification, also phoned Washington about the problem. Instructions cancelling the classification were prepared by myself and others. The classification eventually was dropped in early 1971, and another expensive exercise in wish-fulfillment averted.

I would estimate, however, that at least \$50 million a year is still spent on storing, protecting and inspecting unnecessarily classified defense information.

While many defense planners do not like to admit it, relatively little of what they do actually can be kept secret very long. This is particularly true in the scientific and technical area.

In early 1970, for example, a group called the Task Force on Secrecy, set up by the Pentagon and including such leading scientists as nuclear physicist Edward Teller, reported:

"Security has a limited effectiveness. One may guess that tightly controlled information will remain secret—on the average—perhaps five years. But on vital information, one should not rely on effective secrecy for more than a year. The Task Force believes that classification is sometimes more effective in withholding infor-



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mation from our friends than from potential enemies."

The Task Force, finding that secrecy hampers the flow of scientifically useful information here and abroad, estimated that the "amount of scientific and technical information which is classified could profitably be decreased perhaps as much as 90 per cent." Little has become of that report. It does not sit well with Pentagon psychology.

## The Stampers' Bible

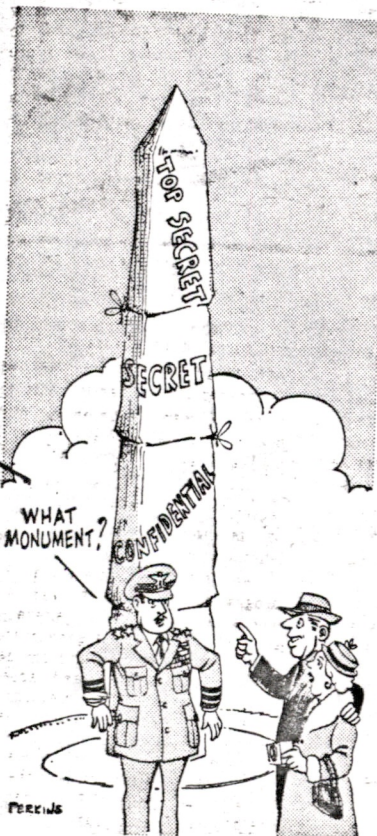
THE BIBLE of security-stamping is called Executive Order 10501. Issued Nov. 5, 1953, by President Eisenhower, its nine pages contain commandments on what the executive branch shall classify, how sensitive information shall be stored and other rituals for keeping big secrets. It does not, however, make it very clear who shall decide what is a secret. It commands only that affected departments limit this power "as severely as is consistent with the orderly and expeditious transaction of government business."

That, which can mean almost anyone, is one reason for the classification craze. It is why thousands of bureaucrats have rubber stamps, which they can order fairly easily from supply units. At the Pentagon, desk after desk has a little tree-like stand with "Secret" and "Top Secret" hanging from its wrought-iron branches.

A second reason for the stamping binge is the security "orientation" given to new arrivals. At these, films on communism are sometimes shown and lectures on secret-keeping delivered. But rarely, if ever, is it stressed that stamping should be done sparingly—"Top Secret" if disclosure would cause "exceptionally grave damage to the nation," "Secret" if it would cause "serious" damage, and "Confidential" if it would "prejudice" the national defense.

Rather, the orientations tend to intimidate new arrivals with myths about classification—that there is some mysterious "law" dictating what must be kept secret, which there isn't, or that divulging classified information is necessarily a crime, which it isn't.

Security-stamping is done entirely on the initiative of the executive branch, governed by its own Executive Order 10501. No law specifies what the government must keep secret. The espionage laws do make it a crime to disclose defense information in some cases—but only if it can be proved, first, that disclosure would damage the nation or help an adversary, and, second, that the intention was to cause this damage. Otherwise, there is no crime in giving out information marked "Top Secret."



By William Perkins—The Washington Post





The Library of Congress

*A concern for strict secrecy made more  
sense during World War II*

of Health, Education and Welfare, and to cut the time period during which a document can remain classified. But far deeper change is needed, and it should be brought about by law, not by executive order.

We need to define, legally, what critical information may be classified—legislation perhaps similar to the 1954 Atomic Energy Act's provisions for protecting "restricted data"—and who may do the classifying. Only then could we begin to have secrets that are worth keeping and to tear down the current classification madhouse.



# A Task Force's View of Secrecy

*Following is the summary of the 1970 report of the Task Force on Secrecy established by the Pentagon's Defense Science Board. The nine-member Task Force was chaired by Frederick Seitz, former president of the National Academy of Sciences, and included such prominent scientists as nuclear physicist Edward Teller and former Atomic Energy Commission member Gerald F. Tape.*

1. The task force considered the matter of classification from several viewpoints. However, it focused its main attention on the classification of scientific and technical information.

2. The task force noted that it is unlikely that classified information will remain secure for periods as long as five years and that it is more reasonable to assume its knowledge by others in periods as short as a year through independent discovery, clandestine disclosure or other means.

3. The task force noted that the classification of information has both negative as well as positive aspects. On the negative side, beyond the dollar costs of making decisions on classification and maintaining information secure, classification establishes barriers between nations, friendly as well as not, creates areas of uncertainty in the public mind on public issues and impedes the flow of useful information within our own country as well as abroad.

4. The task force noted that more might be gained than lost if our nation were to adopt, unilaterally if necessary, a policy of complete openness in all areas of information, but agreed that in spite of the great advantages that might accrue from such a policy, it is not a practical proposal at the present time. The task force believes such would not be acceptable within the current framework of attitudes, both national and international, toward classification...

5. The task force noted that the types of scientific and technical information which most deserve classification lie in areas close to design and production, having to do with detailed drawings and special techniques of manufacture. Such information is similar to that which industry often treats as proprietary and is not infrequently closer to the technical arts than to science. The task force believes that most of the force of attention of classification of technical information be directed to such areas instead of to research and exploratory development.

6. It is the opinion of the task force that the amount of scientific and technical information which is classified could profitably be decreased perhaps by as much as 90 per cent by limiting the amount of information classified and the duration of its classification. Such action would serve better the protection of necessarily classified information since the regulation concerning the enforcement of the residual could be applied more rigorously than at present.

# After the Pentagon Papers - A Month in the New Life Of Daniel Ellsberg

By J. ANTHONY LUKAS

September 22

**N**ORMAN MAILER and Rip Torn flounder together in the island grass, Mailer bleeding from his hammered head, Torn's ear half-bitten off. They rise and exchange maledictions:

Mailer: Kiss off!

Torn: Walk on!

Mailer: Kiss off!

Torn: I'll leave the kissing to you!

The lights come up. The preview audience at the Whitney Museum moves disbelievingly toward the outer gallery where cocktails and canapés await them among Edward Hopper's melancholy seascapes. I spot José Torres, Buzz Farber, Mailer himself and then, suddenly, Daniel Ellsberg and his wife, Patricia. We wave and shrug our shoulders. Only a few days before, the Ellsbergs had agreed to let me trail them about for a few weeks; but I'm not scheduled to start until the following day.

I ask Ellsberg what he thought of the film. Mailer's "Maidstone." He says he was struck most by the two-page mimeographed prospectus handed out at the door which said "Maidstone" was created out of "a deep and revolutionary conviction" that a film must probe "the mystery of life, in all of its fathomless complexity." Ellsberg says it read like "all those prospectuses the Government prepared for the pacification program in Vietnam—how they were going to win the minds and hearts of the Vietnamese people. This time it's the minds and hearts of the audience. The guys in Vietnam never realized

how badly they failed. Do you think Mailer realizes how he failed?"

Abruptly, he's off on a different tack, his blue-gray eyes snapping electrically. An enthusiastic amateur photographer, he's intrigued by the cinéma vérité technique in the film. "All through it I kept jabbing Pat and saying, 'If Mailer can do it, anybody can do it.' Maybe I should make a film."

September 23

**A**S prearranged I reach the Ellsbergs' 14th-floor apartment on Sutton Place South at 1:15 P.M., in time for us to dash to the airport and catch the 2 P.M. shuttle to Washing-

ton where Dan is scheduled to receive the "Federal Employee of the Year" award that night from the Federal Employees for Peace.

But I find him far from ready to leave. He has mislaid a spiral notebook containing his notes for that evening's speech. For 15 minutes, he ransacks briefcases, bookshelves and a desk piled high with notes and documents for the book he is doing for Simon and Schuster. "This is terrible, I know I had it with me when I went to see the lawyer yesterday." But no luck. We're going to miss our plane, so I phone for reservations on a 2:30 flight. (I'm reminded of the afternoon I phoned to broaden the pro-

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The National Observer \_\_\_\_\_  
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J. ANTHONY LUKAS is a writer for The Times Magazine, the author of "Don't Shoot—We Are Your Children"



posal for a magazine piece. Ellsberg said he had to catch a train and couldn't talk long, but he talked nearly 10 minutes. Then he called an hour later to say, "We missed the train. You might as well come over now.")

We are to be joined on the trip by Peter Schrag of the Saturday Review who has been interviewing Dan that morning. While Ellsberg continues his hunt, Schrag and I admire the apartment, actually Patricia's bachelor digs (she is the daughter of Louis Marx, the millionaire toy manufacturer). The Ellsbergs, who now live in Cambridge, have kept it as a New

York pied-à-terre and refuge for Patricia in case Dan goes to jail after his trial next spring for unlawful possession and use of the Pentagon Papers. Meanwhile, it's quite a pied à terre. Three large windows present a spectacular view of the East River. The décor is expensively modern. Two deep brown leather couches confront each other across a square glass coffee table under a silver lamp arched halfway across the room. On a dining table near the windows, a French maid has now set lunch: Melon, chicken, tomatoes, ginger ale. But we barely have time to munch some chicken before rushing to the airport.

IN the taxi, Ellsberg betrays some disappointment about this evening's event. Leaders of the Federal Employees for Peace report difficulties in rounding up an audience. Most Government agencies have refused to let them post notices on their bulletin boards. "It's too bad," he says. "I'd hoped they could use my appearance to do some real recruiting—particularly at State, Defense and the C.I.A. I wanted to see posters with my picture on them all over the Pentagon: 'Come hear Dan Ellsberg speak for peace.'"

About half an hour before the banquet is due to begin, we enter the ballroom of La Gemma, a catering hotel four blocks from the White House. Ellsberg learns to his delight that the evening is a sellout, more than a thousand people are expected. Now, he's a little worried because he never found his notebook and still hasn't written his speech.

"Couldn't I just find a little room here where I could eat alone and write?" he asks.

"Oh no," says Susan Strauss, one of the evening's organizers. "All these people want to watch you eat."

At 8, the ballroom is packed with lawyers from the Justice Department, desk officers from State, tax men from Internal Revenue and squads of fluttery secretaries. When Ellsberg walks onto the rostrum they give him a standing ovation.

I find myself sitting next to Richard Strout of The Christian Science Monitor (who is the New Republic's T.R.B.). Strout tells me that back in July he got a phone call from Ellsberg after Strout did a piece for the Monitor saying, "Daniel Ellsberg looks to one observer like the kind of individual who always believes his latest conversion is the one true faith that wipes out all the heresies of the last. He will proselytize for it, and go to the stake for it." Strout says Ellsberg called him to object. "He doesn't like to be described as intense. He doesn't want people to think he's a nut."

Across the table sits a blind girl from Housing and Urban Development and her girl friend. The friend is describing Ellsberg. "He's this lovely soft man, with a beautiful half smile." The blind girl listens intently. "He's such a mixture of strength and gentleness, and, oh, he looked at me." The blind girl's face lights up with a seraphic smile.

THE program begins. A man from Treasury presents Ellsberg with a huge papier-mâché stamp marked "declassified" and a large scroll. He says, "Our feelings are perhaps best summed up by the code of ethics of Government service which, incidentally, we are told is posted in all Federal penitentiaries" (a ruffle of macabre laughter, in which Ellsberg joins). "The code states: 'Put loyalty to highest moral principle and to country above loyalty to persons, party or Government department.' We present you with this scroll which states the language I have just quoted and also states: 'To Daniel Ellsberg, for exemplifying the highest ideals of public service and in grateful recognition for distinguished public service to the American people. Federal Employees for Peace.'" The employees rise and give Ellsberg a 50-second ovation.

Then up gets Ellsberg, stripped to his blue and white shirt and clearly moved by the occasion. "Brothers and sisters," he begins in a shaky voice, "I am really high on you . . . I had expected a lot of gray people with bags over their heads. So I prepared notes appropriate to a very depressed crowd. But I had a feeling from the moment I stepped into this room tonight that this is a celebra-

tion" (the crowd thunders its assent).

Then he launches into a sprightly review of his own Government service. He recalls that he received his first top-secret clearance while steaming with his Marine battalion toward the south-eastern Mediterranean in 1956. As training officer, he prepared training schedules and then plotted each unit's activities in colored lines on a chart. "They'd say we've been getting 23 hours of squad tactics and 14 hours of field sanitation. And I knew perfectly well that none of that had happened. There was no training going on. . . .

"But it was tremendously good practice for years later in Vietnam when I was busily recording how many hamlets had been pacified, looking at records that said the Vietnamese Army had performed 1,470 small unit actions that week, the next week 2,250. But I had been out in the field enough by that time to know that there were no—no—small unit actions going on, no patrols.

"And I was still in a state of mind that thought: This is terrible. The President isn't getting the truth. I had this impression 'if only the czar knew.' . . . I was still involved in doing what I'd been doing for 10 years before that, with Rand as a consultant, with the Defense Department, with State—trying to get the truth to the President. . . . I remember when I went to the Rand Corporation from graduate work at Harvard, one professor said, 'You've sold out,' and I told him very seriously that serving the President was the most important role a person could play. . . . But reading 7,000 pages of the Pentagon Papers has shown me that the President of the United States is part of the problem."

Four blocks from the White House, 1,000 Federal employees cheer, whistle and stomp.

## September 30

**W**E are scheduled to fly tomorrow to Chicago where Ellsberg is to pick up still another award — this one from the Business Executives Move for Vietnam Peace. But at the last moment he calls to say he is going today by way of Los Angeles so he can attend a hearing for his friend, Tony Russo, who has been in prison since Aug. 16 for refusing to tell a grand jury about his role in Xeroxing the Pentagon Papers.

Ellsberg is eager to fly on a 747. At 6 P.M. we board one of United's big jets and no

sooner are we settled in our first-class seats than Ellsberg trots up the stairway to look at the lounge. He returns shaking his head and mumbling "incredible." Rising above the clouds, the plane now passes into the warm red glow of the setting sun. "I must say the 747 puts on the best sunset I've ever seen," Ellsberg says. "I must compliment them on their sunsets."

**S**OON the stewardess—who has recognized him and is more than normally solicitous—begins to ply us with refreshments. Ellsberg usually drinks very little, but in honor of his first 747 ride, he orders sherry, then champagne. He holds the champagne glass up to the window, catching the

dying red glow and swirling it there among the bubbles.

He begins reminiscing about the evening in Washington with the Federal employees. "God, I was moved by those people. They're my kind of people. They've made, or are making, the same transition I made and it's important for me, I guess, to find that echo out there." But then he talks about his former colleagues in the Federal Defense Establishment and at Rand. "I've heard from almost none of them and the one or two I've called have been noticeably nervous. One I asked for lunch said, 'Look, Dan, you'll understand if I don't want to see you until this thing blows over.'"

"Most of my friends in Government regarded themselves

to some degree as rebels and mavericks—telling hard truths to power—but always within the framework of the larger organization. Many of them now realize that organization is not serving human needs, but they feel they can't step outside. That makes me very sad. A lot of them look at me with a kind of horror, as you would at an astronaut who stepped out of his space capsule and cut his umbilical cord and just floated off into space, drifting into a black void, cut off from air, from nourishment, from NASA, unhooked, in fact, from that entire engine of power that has developed in this country since World War II.

"It's very much the way I used to feel about the piano."



I trained to be a pianist until I was in my mid-teens, you know, practicing four hours a day, 12 hours on Saturday. My mother had wanted to be a concert pianist and she was determined that I should be one. Occasionally, people would be pointed out to me as having given up the piano and I regarded it as like signing a pact with the devil, it was unearthly. I wondered what they did all day? What meaning could their lives have? That's the way my old friends at Rand must look at me today. But I can assure them, my life does have meaning. You can breathe out here."

The stewardess pulls down a screen and onto it flashes the National Football League's Game of the Week—Chicago vs. Minnesota. I pick up my earphones, a sucker as always for gridiron melodrama. But Ellsberg starts flipping idly through *The New Yorker*. "I'm not a sports fan," he confesses. "Maybe because I never played them much as a kid. Because of the piano, I could never do anything that might hurt my hands."

"But when I was 15, my family was in a car crash driving back from the Fourth of July. My mother and sister were killed outright. My father, who was driving and apparently fell asleep at the wheel, had just minor injuries and I broke my knee. I can remember standing in the wreckage, looking down at my mother and thinking, 'Now I don't have to be a pianist any more.'"

"The next summer, I spent a month stacking hay in Montana. It was the first time I'd ever really used my hands in hard physical labor. That was very important to me. But after a full day wielding the pitchfork my hands were bent into claws. I could hardly move my fingers. My next chore was milking the cows and I can remember how marvelous it was to let the warm milk trickle down over those bent claws of mine and gradually become a normal

The Bears and the Vikings are followed by a movie and Dan and I adjourn to the upstairs lounge. We pick up soft drinks and cheese from the minibar and settle ourselves on a red banquette against the yellow shag wall. Ellsberg starts talking about his family again. "Once I asked my father why his father had come here from Russia. 'To be free,' my father said. 'He didn't want to be drafted into the Imperial Army for seven years.' We came to be free."

At that, he reaches into his briefcase and pulls out a paperback copy of Bernard Bailyn's "The Ideological Origins of the American Revolution." Turning to the last paragraph, he asks, "Have you ever read that? I've read it a dozen times, but it still moves me so much I can't read it out loud without weeping." I begin reading from the point marked by his long index finger:

"But some, caught up in a vision of the future in which the peculiarities of American life became the marks of a chosen people, found in the defiance of traditional order the firmest of all grounds for their hope of a freer life. . . . It was only where there was this defiance, this refusal to truckle, this distrust of all authority, political or social,

that institutions would express human aspirations, not crush them."

A FEW minutes later, our jet lumbers in for a landing at Los Angeles Airport. Ellsberg goes to the Avis counter to rent a car. A young Avis employe with a droopy mustache recognizes him immediately and leans over to say, "I'd like to shake your hand, Mr. Ellsberg." Used to this sort of thing by now, Dan takes the proffered hand and says softly, "Thank you." (But

I detect a faint disappointment that the young man's adulation is not shared by the willowy California blonde who goes on booking Dan's car without so much as a glance.)

Ellsberg rents a pea-green Mustang convertible. Out front, he promptly hauls down the top, slings his jacket in back, flicks on the radio and wheels the little car onto the road. Suddenly, it's a different Dan—a freer, jauntier, more exuberant man whom I now can easily imagine on the Malibu beach where he lived for three years after getting back from Vietnam in 1967.

WE pass an airport parking lot and he recalls an incident there several years ago with Tran Ngoc Chau, a member of South Vietnam's National Assembly and Ellsberg's closest Vietnamese friend. "We were coming into this lot and as I took a ticket from the slot and the barrier went up, this recorded voice came out of a loudspeaker saying, 'This is your ticket. Do not lose this ticket. Do not leave it in your car. Thank you.' When we got through, Chau said, 'Im-poss-i-ble,' slowly like that in four syllables, 'Im-poss-i-ble, that America should lose the war in Vietnam.'" (Chau was arrested in 1969 and given a 10-year sentence for having maintained contact with his brother, a convicted Viet Cong intelligence agent. Chau acknowledged the contacts but said he had kept the American Embassy and the C.I.A. informed of them. Later, the Supreme Court annulled the sentence, but President Thieu refused to release Chau. Ellsberg says the Chau affair was one of the turning points in his attitude toward the war.)

Ripping down the freeway now, the radio blares out the romantic strains of a Russian tone poem. "Ah," Ellsberg shouts with joyous recognition—and with the polish of an album blurb—"Gliere's 'The Apprentice'—"

from the primeval forest of Mufon who lies paralyzed for the first 30 years of his life and then, commanded by two holy wanderers, sets forth on a life of heroic adventure."

A few minutes later we glide into Westwood. He points toward a black block in the night. "See that Post Office? I mailed some of the papers to Senator Fulbright from there."

In the neon glare of a car wash, he goes into a phone booth to call Robert, 14, and Mary, 12, his children by his first wife (the former Carol Cummings, daughter of a Marine General, whom Dan married when he was 19 and divorced in 1966). But there is no answer.

So he decides to get his hair cut instead. It's already nearly 11, but Ellsberg knows a girl in Westwood, a songwriter who is studying to become a hairdresser. We drive to her house where we find her in the kitchen with an old friend of Pat Ellsberg's, a movie actress named Ellen.

While Dan sits in a kitchen chair getting his frizzly, graying hair trimmed by the songwriter, Ellen tells us about a visit she had the day before from two F.B.I. men—a common experience these days for the Ellsbergs' friends. "They wanted to know what Pat and I do when we're together," Ellen reports. "So I told them in detail all about our shopping expeditions and our lunches. That wasn't what they had in mind. So I told them about my two parts on 'The F.B.I.'—you know, the television series—once as a gangster's girl friend, once as an F.B.I. man's wife. They were fascinated. 'You don't look like any F.B.I. man's wife I know,' they said."

Ellsberg is fascinated too—by the F.B.I.'s apparent ineptitude. "They're really floundering around," he said. "Can you believe, they still don't know the five places I stayed when I was underground in June."

At 12:15 A.M., he finally reaches his children and drives off to see them. I head for my hotel.

### October 1

AT 10, I meet Ellsberg in Judge Warren J. Ferguson's wood-paneled courtroom in the Los Angeles Federal Building where Tony Russo's hearing is scheduled.

Russo's case is complicated. The 34-year-old engineer makes no secret of his role in helping to Xerox the Pentagon Papers, but when summoned before a grand jury last summer, he refused to

testify about it behind closed doors. For this, he was convicted of contempt of court and sentenced to prison until he agreed to talk. For the past 18 days, he has been fasting in his cell to protest the events at Attica, and now his lawyers have devised a formula which they hope will get him out: He will testify so long as he is provided with a transcript of his testimony from which he can quote in public.

A few minutes later, marshals bring in Russo—a rumpled figure with straggly brown hair and walrus mustache.

The proceedings are surprisingly brief. Russo's lawyers present their petition. The Assistant United States Attorney makes his expected objections. Then Judge Ferguson promptly grants the petition and sets Russo free. A cheer breaks out from Russo's supporters in the courtroom. Ellsberg rushes up the aisle to embrace his friend and they walk arm-in-arm into the corridor where Russo holds an impromptu news conference.

In their first private moment together, Ellsberg persuades Russo to celebrate freedom with a trip to Chicago. The flight leaves in an hour. So they and three women leap into the pea-green convertible and wheel off down the Santa Ana Freeway. I follow in a Porsche driven by a German-born systems analyst. The two convertibles play tag along the freeway, with much waving and hallooing back and forth.

A knot of Ellsberg's and Russo's friends are at the airport to see them off. Then one rushes up to report that "the guys from Bekins are here" (he refers to several F.B.I. men who showed up 10 days before at the Bekins Moving and Storage Company in Los Angeles with a search warrant to seize 28 boxes of Dan's personal possessions).

Dan, Tony and I move through the gate toward the plane, when suddenly one of the "guys from Bekins" leans from behind a pillar and starts taking pictures. Tony stops in his tracks and shouts, "Hey, come out and I'll pose for you." The snapshot artist ventures forward and Tony says, "I want you to give J. Edgar a message for me," upon which he raises his middle finger.

A STEWARDESS leads us to one of American's new "conference clusters," lounge chairs which can swivel around a circular table. When



we are airborne, Dan pulls a manila envelope from his briefcase and, smiling broadly, says, "Look what somebody handed me at the airport." The envelope contains two papers marked "Rand Document—for Rand use only," and a note saying that the documents, both written by Dan when he was with the company, will be read over a Los Angeles radio station the following week.

I flip through the first document, "Some Prospects and Problems in Vietnam, February 15, 1968," a time when Dan was already developing serious doubts about United States involvement in Vietnam. It read in part: "In discussions in the Pentagon, the spring of 1965, I had been one of those in favor of sending United States combat forces to Vietnam. . . . After 10 years as a cold warrior, at Rand and in the Marines before that, I had a personal desire to beat the Communists, this once, this place. . . . I could not believe that the United States could fail in the end to solve the problems that the French had not solved. Well, I am disabused of that notion now."

While I read, Russo begins to recount his prison experiences. Ellsberg, with an obvious personal interest in the subject, questions him voraciously:

Ellsberg: "When you first came in did the prisoners show an interest in you?"

Russo: "They knew who I was. They knew what I'd done and they trusted me. They'd say, 'Man, how did you rip off those papers' and I'd smile and say, 'What papers?'"

A stewardess comes to take our lunch order. "Will you have veal Françoise, chicken coconut or filet mignon?" she asks Russo.

"Tell you what I'd like," he says. "A glass of milk."

"Milk?"

"Yes, I'm fasting."

"Oh," she says. Clearly she has never had a faster before.

A few minutes later, the Flight Service Director comes over. "Well, gentlemen, how have you found our conference set-up? We find it works very well for gentlemen who wish to congregate for business."

"Of conspiracy," Ellsberg says with an impish grin.

At Chicago's O'Hare Field, we are met by two black men representing Business Executives Move for Vietnam Peace. As they drive us into town, Ellsberg tries to put them at ease. "I was born here," he says. "I used to play at Lincoln Park."

"Oh, yeah," the driver says.

"Over there by the Gold Coast, where the rich people live."

Ellsberg smiles nervously. (His parents weren't exactly rich. His father was a structural engineer, his mother a private secretary; they eventually settled in Highland Park, a middle-class Detroit suburb.)

At the Executive House, a hotel on the edge of the Loop, Ellsberg is led immediately to the press room for a television interview. "Will your trial be anything like the Chicago Seven trial?" the interviewer asks predictably.

"Many people have tried to raise the issues of the war in court and have failed. But those issues are so central to my trial that I have every expectation that the judge and jury will address them this time." (In fact, Ellsberg hopes to introduce the Pentagon Papers as a major defense exhibit and use the trial as a forum for educating the public on the war.)

THEN Dan—and Patricia, who has flown out from New York to meet him—are whisked to Orchestra Hall for the "American Peace Awards." I join them later in their red-velvet-lined box for what turns out to be a gaudy extravaganza, a kind of Academy Awards of Peace. Outside, on Michigan Avenue, a giant spotlight probes the Chicago sky. Inside, more spotlights pick up the winners as they come on stage beneath a huge Peter Max banner (four white doves fluttering around a young girl seated on the edge of a flower-bedecked cliff) and walk down red carpets to a microphone at center stage where the master of ceremonies, Ramsey Clark, presents them with the golden awards. A rock group, a folk singer, poetry readings and recitations from the Catonsville Nine transcript stretch the production to four hours. But Dan seems to enjoy every minute of it.

The 15 award-winners—among them, Joan Baez, Benjamin Speck, Wayne Morse, Prof. George Wald, David Schenbrun and John Kerry of the Vietnam Veterans for Peace—each deliver a little, or not so little, acceptance speech. Miss Baez provides the evening's only real excitement by laying the two American flags—on their poles—flat on the stage, explaining, "These flags are an obscenity. They are not sacred. Our lives are sacred." Many of the 1,200 spectators applaud her but some of the Businessmen

for Peace, who paid up to \$25 an orchestra seat, shout for the flags to be put back up. Two men finally go on stage and set the flags upright. She puts them down again. Later, Ramsey Clark and Representative Pete McCloskey put them back up, and there they stay while McCloskey introduces Dan, who gets a 70-second standing ovation, the longest of the evening.

Ellsberg comes on stage carrying a large paper-bound book, the first of 12 edited volumes of the Pentagon Papers which the Government Printing Office has now issued. "It came out on Monday," he explains. "I was in Washington and I went over to get my copy. It cost \$50, a lot cheaper than Xeroxing. It was a very strange feeling for me to carry this heavy box out of that office. I had carried those same pages before." Dan says he wishes some Congressmen would do just what he did that day, "carrying it on their shoulders, in a box, maybe around the Capitol, to feel in their arms just how heavy is the record of 25 years of classified lies and brutalities."

He recalls that when he first read those volumes "I realized how many men had died because those pages had been stamped top secret and because generations of bureaucrats like me kept them secret . . . I realized that I had to reveal this information even if I had to go to prison for the rest of my life . . . I needed some help. Fortunately I had a friend named Tony Russo. That morning, I went over to Tony's apartment and I said 'Tony, do you know where we can get a Xerox machine?' and he said, 'Yes' and that night we stayed up all night. That was two years ago today, the night of September 30 to October 1, 1969."

With his deft touch for the dramatic, Ellsberg then introduces Russo. But this proves to be a mistake. Out of prison barely 13 hours, already in the 19th day of his fast, Russo rambles on for

nearly 40 minutes until people start shouting for him to sit down. Dan finally moves in to cut his friend off, but gently and lovingly, putting his arm around Tony's shoulders and telling the audience, "When you do something, I wish you a friend like this hungry and very brave man."

After the program, the award-winners and a few Businessmen for Peace are invited to late supper at Hugh Hefner's famed Playboy Mansion. Not surprisingly, some—notably Joan Baez and Dr. Spock—decline the honor. But Ramsey Clark, Pete McCloskey, John Kerry, George Wald, Wayne Morse, Dan, Patricia and Tony do gather in the great baronial hall shortly after midnight. Hefner, in black slacks and embroidered shirt, greets his guests at the door. There are no bunnies in attendance, just one striking blonde who is introduced as January's Playmate, and several other women guests.

After an hour of drinking, some people begin drifting downstairs to the heated pool and cozy bar which looks into the pool's blue waters through a large window. I'm sitting at the bar talking with Patricia and John Kerry when suddenly Dan appears at the window, in one of the Mansion's brown bathing suits, making fish eyes at Patricia. A few minutes later he is followed by Tony Russo and George Wald. I turn back to the bar, when I hear a little giggle from Patricia. Turning around, I see two naked women at the window. A tableau of the American peace movement in 1971—Ellsberg, Russo, Wald and four breasts bobbing in their wake.

As usual at the Mansion, it's all antiseptic. No real sex, not even any touching. Soon everybody is clothed and upstairs for the buffet supper. Gradually, most of the guests drift off. At 3:30, only Hefner, Tony, Dan, Patricia and I are left at the long table. "Like to see my private quarters?" Hefner asks. Dan and Patricia nod enthusiastically and Hefner leads on through his bedroom, with its famous revolving bed, down a spiral staircase to the "Roman Baths" and their control panel which can set off a spectacular panorama of showers, sprays and neon lights.

At 3:45 A.M., Hefner sends us home to the Executive House in his chauffeured limousine.

## October 2

EVERYBODY sleeps late. At 1 P.M. we head for the Merchandise Mart where Ellsberg and Russo are to appear on Irv Kupcinet's television show, a two-and-a-half-hour potpourri which this week includes Lawrence Welk, Rex Reed, George Reedy and E. F. Skinner.

Kupcinet asks whether Dan should introduce him on the air as "Dr. Ellsberg." Dan asks Patricia, "What do you think, do we want to keep rubbing my doctorate in the Justice Department's face?" Patricia thinks a moment. "Sure. Why not." Dr. It is.

Ellsberg and Russo are to be on a segment with Reedy, Lyndon Johnson's former press secretary. Ellsberg is delighted because he greatly admires Reedy's book, "Twilight of the Presidency," which he considers an important demystifier of the Presidency, a powerful antidote to Richard Neustadt's "Presidential Power," which he once revered.



On the air, Ellsberg tells Reedy that his book demonstrated better than anything else that "power corrupts, an old thought to be sure, but one which most Americans don't think applies to America."

Kupcinet asks whether his experience has made him "lose faith in the American democratic system." And Ellsberg says, "Quite the contrary, I've discovered parts of our democratic system that I'd forgotten about during my years in the executive branch — Congress, the courts, the press."

After the show, we walk along the Chicago River. When we reach the Marina Towers, two striking round apartment buildings, Dan says he'd love to go up top and look around. At the door, he suddenly turns to Tony, waving his edition of the papers, and says "Hey, we could do what we've always wanted to do with these," and Tony says, "Wow, it would be beautiful from up there." While Dan goes to see if we can get up to the roof, Tony explains that "when Senators and others were refusing to make the papers public, Dan and I talked about taking all 7,000 pages up in a helicopter over Los Angeles, and dropping them one by one. People could then take them to some central place and assemble them into a 'People's Copy' of the papers." Just then Dan comes back to report that there is no way to the roof.

On our walk, Dan and I chat about Ramsey Clark who impressed me last night. I

remark on the graceful apology he offered to Dr. Spock, whose indictment for aiding and abetting draft resistance he had gained only three years ago.

"Well, he has a lot of things to apologize for," Dan says.

"Perhaps," I say, "but certainly you'd be the first person to concede that people change."

"Yes, but Clark could have done something for peace while he was in power."

"But, Dan, what did you do while you were in power?"

He shrugs and concedes that Clark may be more impressive than any of the prospective Democratic candidates for President.

Dan pauses on the steps of a Christian Science church. "Aha," he intones with a finger raised. "The First Church of Christ, Scientist." He recalls that he was raised a Christian Scientist. "My parents were Jewish, but mother converted to Christian Science and she, in turn, converted my father. I got a heavy dose of it when I was a kid. I don't think I ever saw a doctor until I broke my leg in a car crash. The reason I still have this scar on my forehead is that my father wouldn't let them stitch it up until my uncles arrived and insisted." Dan thinks his Christian Science upbringing may have instilled in him a certain "sense of responsibility," but he is repelled by the religion's bland optimism. "It's no coincidence that Haldeman, Ehrlichman and two other White House staff men are Christian Scientists."

In the hotel lobby, Ellsberg runs into John Sack, an old friend from both Harvard and Vietnam days, who is on the road publicizing his new book on Lieutenant Calley. They agree to have a drink that evening. Ellsberg is not entirely pleased with the encounter. Although he likes Sack personally, he abhors the book which he thinks is a dishonest attempt to exonerate Calley.

At 7 P.M., we gather in the lounge on the hotel's 32nd floor. Over Bloody Marys, the discussion begins in a low key, on Sack's contention that destruction of villages in Vietnam was official United States policy (which would lift some of the personal responsibility for the My Lai massacre from Calley). Ellsberg says there is no evidence such destruction was official policy in Vietnam, although it was in Laos.

Then they start on Sack's argument that Calley and his men were genuinely frightened at My Lai, fearful that the civilians they found might turn on them at any moment. Ellsberg vehemently denies this. "I've just never heard of that in Vietnam. I don't mean that only males over 17 pull the triggers for the Vietcong. Some women and children certainly do. But they aren't the women and children you see wandering around the villages when the troops march in. The combatants know enough to get out."

Voices and feelings are rising. At 8:30, they part cordially, but a bit coolly. Dan, Patricia, Tony and I head for the Hyde Park apartment of

Eqbal Ahmad, a Pakistani scholar who is a fellow at the Adlai Stevenson Institute here and one of those indicted with Rev. Philip Berrigan for conspiracy to kidnap Henry Kissinger and blow up steam tunnels in Washington.

Ahmad, a renowned cook, serves us chicken, rice and red wine out of a big jug. Halfway through dinner, we are joined by Staughton Lynd, the radical historian, and his wife. Ellsberg and Lynd talk about how the Pentagon Papers could be made an issue at the upcoming meeting of the American Historical Association.

Late in the evening, we gather around the television set to watch Ellsberg on the Kupcinet show. At one point, Kupcinet asks Ellsberg what positive effects he thinks the release of the Pentagon Papers has had, and Dan suggests that they may have helped create a climate in which the public could accept Nixon's trip to China. This annoys Ahmad, who asks Ellsberg whether he really thinks the Nixon trip is such a favorable development. Doesn't he realize that China and the United States are preparing to deal with each other at Vietnam's expense? A bit taken aback by the fervor of Ahmad's radical critique, Ellsberg admits he hasn't thought the matter through.

### October 3

**T**HE Ellsbergs and Tony have been invited for Sunday brunch at the home of Al Booth, a Chicago leader of Business Executives Move for Vietnam Peace. Again I tag along. Ahmad is there too and so is Studs Terkel, the Chicago author and radio interviewer.

After brunch, Terkel sets up his tape recorder on the coffee table and starts a rambling interview with Dan, Tony and Ahmad. At one point, Dan and Ahmad start reminiscing about their first meeting—at an April, 1968 Princeton conference on "Revolution in a Changing World." There Dan also met Janaki Tschannerl, an Indian girl who had a profound influence on him (particularly when she said "In my world, there are no enemies").

Now, he recalls, "she gave me a vision, as a Gandhian, of a different way of living and resistance, of exercising power nonviolently. And as I saw it at that time, Martin Luther King began to seem to me to be our last hope. And he was killed that weekend. You were with me then," he says to Ahmad in a choked voice.

"All right, when did I see you next? It was in this town, at a conference of the Adlai Stevenson Institute. By that time, June of 1968, I'd been working a good deal behind the scenes on the Vietnam policy speeches of Robert Kennedy. And then I saw him as the hope. So"—he brushes a hand across his face—"so it was while we were here that Robert Kennedy was killed. That's a way to feel powerless. . . . So I spent that summer with girls. What I was doing with one girl after another was trying in some way to remind myself . . . that one could have purposes or satisfactions that were entirely apart from politics."

(One of Ellsberg's oldest friends, who visited him in Malibu that summer, recalls, "He'd take you aside at every opportunity and tell you how he'd suddenly discovered that it was nice on the inside of a woman's legs, as though he was the first person to find

that out. Of course, that's typical of Dan. Ever since I've known him, he's had this almost evangelistic need to communicate to you the truth he's just discovered. I suspect, that's the way it was with the Pentagon Papers. He couldn't stand having the truths he'd discovered in them hidden from the public view.")

The interview goes on and on through the long afternoon. Once, while Terkel is changing reels, Dan gets up to play Chopin on the piano. Late in the afternoon, Tony breaks into tears while describing his prison experiences. Dan reaches over and lays a hand on his shoulder. "I know just what you're going through. You cry at the same things I do these days."

We miss our 5 P.M. plane. We also miss the 6 and 7 P.M. planes. Finally, Al and Gisela Booth drive us to the airport. Parting, Dan warmly embraces both Booths, whom he met for the first time only 48 hours ago.

### October 4

**D**AN and Pat have dinner at a Greek restaurant in Greenwich Village with Abbie Hoffman and Jerry Rubin. I miss this one, but hear about it later from various participants. They talk about conspiracy trials, prison, Rubin's recent trip to Chile, radicals' plans for an anti-Nixon campaign next year. They differ on tactics, Dan expressing



considerable skepticism about the planned demonstrations at the Republican convention next summer. But despite their differences, Jerry Rubin says later, "I really dig Dan. What impresses me most is his openness. He's very eager to learn."

Not all radicals share Rubin's enthusiasm for Ellsberg. Some point to his past complicity. Eric Mann, a former Weatherman, wrote last summer: "We shouldn't get carried away with enthusiasm for the man . . . Hundreds of thousands of my comrades are buried in Vietnam because of the Ellsbergs who

ran this country. The first step of Ellsberg's radicalization was not an attack of moral scruples, but the gnawing, horrible fear that he was a loser, that he had picked the wrong side."

Others note that he is not a systematic radical. Howard Zinn and Noam Chomsky, Boston radical intellectuals with whom Ellsberg has grown very friendly during the last two years, note his failure to develop a coherent radical analysis. "Dan is chiefly interested in reallocating power between the executive and legislative branches," says Zinn. "That's pretty traditional political science, too traditional for me." But both admire his daring, exemplified by his participation with them in last spring's May Day demonstrations in Washington. Chomsky recalls: "Howard and I, who've been in the Movement for years, kept asking ourselves, 'What the hell are we doing here disrupting traffic?' But Dan maneuvered our little affinity group like a platoon in Vietnam."

And even those in the Movement who don't know what to make of a reformed cold warrior like Ellsberg besiege him with speaking invitations. Joan Libby, who schedules such engagements for him, says, "They know he's a superstar, times are bad, and superstars are rare."

But some of Ellsberg's friends are palpably disturbed by what one calls his "indiscriminate hobnobbing with radicals of any stripe." They feel such associations destroy his credibility with the moderates to whom he initially had such appeal. "You're a bridge and you're burning one end," a Harvard professor recently warned him. Another long-time friend thinks he understands the roots of such hobnobbing. "Dan's always been at the cutting edge of whatever he's doing and it gets lonely out there. I can remember when he was first applying games theory to defense strategy. He was very proud of the top Washington officials he had dinner with. Now he loves to dine with the big names in radicalism. In both cases, he needed a legitimizing audience, a community which accepted him."

### October 3

**I** DROP by the Ellsbergs' apartment on the third floor of a large frame house in Cambridge. While Dan dictates letters to his secretary at a handsome oak table, he lets me prow around the apartment.

It's bright, tastefully decorated, deeply imprinted with Dan's personality in a way that Patricia's New York flat is not. The front room, lit by a large picture window, has a white corduroy couch, a cluster of wicker chairs with colored cushions, an elaborate stereo system with five boxes of records (lots of Bach and Mozart, but a heavy scattering of new rock and folk music). A narrow hallway, off which are a tiny kitchen and the bedroom, leads to a back room cluttered with desks and filing cabinets. On one wall is a periodical rack filled with carefully stacked back issues of the New Republic, the Washington Monthly, The

New Yorker, the Congressional Record, Foreign Affairs, Playboy and The New Leader. On one desk is a pile of Dan's as-yet-unframed-photographs—ethereal shots of blossoms, leaves, fields; Patricia in a waterfall, in bed, with a white kitten on her shoulder.

On a bulletin board is a Robert Lowell poem—"R.F.K. 1925-1968"; a child's note ("Dear Mr. Ellsberg. You have done a great duty to are country. Your the biggest hero we got. P.S. Thank you. P.S.S. My family thinks so too. Love from Meg Van Doren"); and another ("You are a Good Man. Thank You and Good Luck")—which Dan tells the three black girls

slipped to him through a phone booth door at a time he was making all his phone calls from booths. There are also two phone messages tacked to the board. One reads, "Call Sidney Zion, Old Friend, Urgent" and is dated 5:03 P.M., June 16, hours before Zion announced over a New York radio station that Ellsberg was the man who had leaked the papers. The other, from 10:40 A.M., June 22, while Dan was still underground, reads simply, "F.B.I. Agent 742-5533." There is also a sheaf of clippings on the Pentagon Papers from German, Swedish and Japanese newspapers.

On a table is a pile of mail, some of the thousands of letters Ellsberg has received in recent months. I pick out three:

• "As far as I am concerned you are the hero of the Vietnam war, and that if more people would do the things that had to be done such as you did, the world would be a better place."

• "Hail Hero! How are the royalties coming? Will they provide enough for your children to compensate for their having a traitor as a father? Why is every traitor a Jew?"

“By profession I am a business consultant and I would appreciate knowing if your writing on the ability to make decisions could apply to business decisions.”

His secretary comes upstairs with the day's mail—a good two dozen letters, among which is a curiosity. The first piece of hate mail Ellsberg can recall which is not also anti-Semitic. In fact, it comes from an apparently Jewish doctor in Skokie, Ill. Ellsberg is so intrigued with the letter—which compares him to Benedict Arnold—that he decides to call the doctor. But he turns out to have an unlisted phone number. “I should have known,” Dan chuckles. “If you send hate mail, of course you don't list your phone number.”

In the month I was with him, few people Ellsberg encountered raised any serious questions about the ethics of leaking the Pentagon Papers. One of these few was a Harvard professor who accused him of betraying his close friend, Harry Rowen, then president of Rand. The professor quoted E.M. Forster's line—“If I had to choose between betraying my country, and betraying my friend, I hope I should have the guts to betray my country.” This argument hits home with Ellsberg, for Harry Rowen was indeed his best friend in the world. He knew that his re-

lease of the papers, which he obtained through Rand, would undoubtedly damage Rowen's standing in Washington. But he argues that the choice was not simply between an abstract concept like “country” and a real friend. “After all, there were thousands of very real people — among them some of my friends — who would also be deeply affected—even killed—by a continuation of the war.”

From a nearby bookshelf Dan plucks down several books which he says have influenced his recent development: “Conquest of Violence: the Gandhian Philosophy of Conflict” by Joan V. Bondurant; “We Have Been Invaded by the 21st Century” by Dave McReynolds; “The Politics of History” by Howard Zinn, and, particularly, “Revolution and Equilibrium” by Barbara Deming, whose title essay ends: “May those who say they believe in nonviolence learn to challenge more boldly those institutions of violence that constrict and cripple our humanity. And may those who have questioned nonviolence come to see that one's rights to life and happiness can only be claimed as inalienable if one grants, in action, that they belong to all men.”

## October 12

BACK in New York, I go over to the Ellsbergs' apartment for my only formal taped interviews.

First a brief one with Patricia. I particularly want to ask her about the widespread public impression that she “changed” Dan from a “hawk” to a “dove” by refusing his marriage proposal in Vietnam during 1966 and marrying him four years later only after he had substantially altered his views on the war.

“Oh absolutely not!” she says. “It was 10 different things of which I was perhaps one small part. Sure there were differences between us in Vietnam. But it was more the difference between men and women. I looked at those kids in the streets, the refugees, the poverty, and the thought of what was happening to those human lives was just intolerable, sickening. Dan at that time was much more caught up in ideologies and abstract principles. He wanted things to be more humane, too, but was trying to bring that about through memos, internal re-

“But what changed Dan wasn't me. It was seeing the

war and the devastation month after month, sitting in on all those conferences, reading all those memos, and it was time and his own personal liberation. When I saw him again in California, in the spring of 1969, he was much looser, much easier with himself and with nature. It was just a kind of *joie de vivre* that hadn't been there before. He was his own man. He was a man who could finally love and whom I could love.”

When I ask the same question of Dan, he mentions many of the things and people we have already talked about, but gradually we move toward a conference of the War Resisters' League which he attended at Haverford College in September, 1969 — just weeks before he decided to Xerox the Pentagon Papers.

“There was this one young guy there—a Harvard graduate named Randy Kehler. A very good-looking guy, very reflective, thoughtful, calm, into the California culture as I was. The last evening of the conference, Randy gave a talk about the peace movement. He talked of all the people in the movement who were going to jail. Then, out of the blue, he said, ‘and I'm very proud that I'm soon going to be joining them.’ He was resisting the draft and, sure enough, he was soon in prison.”

“Well, I remember thinking, you see—this is our best, our very best, and we're sending them to prison, more important, we're in a world where they feel they just had to go to prison.”



Suddenly, he begins to weep openly, burying his head in his arms in the half light seeping in from the East River. After a few seconds, he wipes his eyes. "I'm never able to tell anyone about this without crying. The best we had, our very best." All of a sudden, it set new standards

for me of what one could be expected, or asked, to do, in the way of resistance to the war. I realized that these young men were very much like my friends in the Marine Corps who had gone into combat for their country. I saw that what these draft resisters were doing was entirely in that spirit. That they were very patriotic. And suddenly I realized that I too would have to enter a kind of resistance to the war even if I too had to go to prison."

#### October 22

ELLSBERG is speaking in Harvard Yard to the 20th reunion of his Harvard Class of 1952. His shirt sleeves rolled up, he sits on the edge of a classroom desk and talks of the changes 20 years have wrought.

"I can remember a night when we were freshmen. Those of us here in the Yard were awakened by this terrific noise. It turned out some student had set off 24 sticks of dynamite down on the river bank—a prank, you know, like one of our panty raids. But only a couple of days ago, the building in which my M.I.T. office is located was bombed—not in jest—but for real, apparently out of outrage at this terrible war.

"So the changes in these 20 years since we left Harvard have not been very good. If we're going to escape much worse, we need other kinds of change. Not a revolution, but a cultural reformation."

His classmates give Dan a resounding ovation. Then, in the question period, one asks him whether he is suffering much harassment from the F.B.I. and other Government agencies. "Oh, a bit," he says with a laugh. "My phone is tapped and all that. But after all I'm giving them a bit of trouble, too. I hope I'm giving them more trouble than they're giving me. And I have more trouble I can give them. And I will." ■

Ellsberg's secretary brings the day's mail, which contains a curiosity: The first piece of hate mail that Ellsberg can recall which is not also anti-Semitic. 99

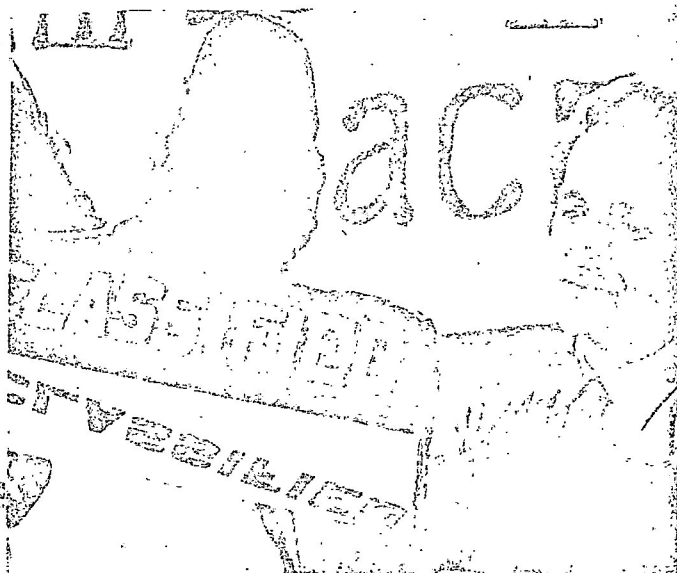
Ellsberg is fascinated by the F.B.I.'s apparent ineptitude. "They still don't know the five places I stayed when I was underground in June," he says. 99



The new life of Daniel Ellsberg



PAPER MATES—Ellsberg leaves a Los Angeles court Oct. 1 with Anthony Russo, who had just been released from prison. Russo, who also worked for Rand, has admitted he helped Ellsberg Xerox the Pentagon Papers.



AWARD—At a September meeting of the Federal Employees for Peace Ellsberg receives a huge papier-mâché stamp memorializing his role in the Pentagon Papers affair.



**TURNING POINT:** Daniel Ellsberg, with wife, Patricia, beside him, announces that he leaked the Pentagon Papers to the press, moments before his surrender to the United States Attorney, last June 28 in Boston. "I did this clearly at my own jeopardy," he said, "and I am prepared to answer to all the consequences. . . . Would not you go to prison to read the papers?"



## Think Tank's Woes

### Defense Budget Cuts, Pentagon Papers Leak Beleaguer Rand Corp.

Firm Trims Basic Research,  
Focuses on 'Practicalities,'  
Finds Its Image a Problem

Squishy-Soft Strangeloves?

By G. CHRISTIAN HILL

Staff Reporter of THE WALL STREET JOURNAL

WASHINGTON—Dialog in a think tank. With a public relations man beside him, George Tanham, vice president of Rand Corp., is talking to a visitor at the research organization's offices here—trying to talk to him, anyway.

TANHAM: "And, incidentally, the airborne alert system is still being used. . . ."

RAND PUBLIC RELATIONS MAN (interrupting): "You can't say that. It's classified."

TANHAM: "But I just saw it in a news magazine last week."

PR MAN: "Well, you still can't say it."

TANHAM: "Oh, I didn't know that."

It has been no picnic to work for Rand since it became clear that the nation's best-known think tank had sprung a gusher-sized leak—the taking of the Pentagon papers from its Santa Monica, Calif., headquarters by former employee Daniel Ellsberg. The Air Force, Rand's most important customer, has clamped down on security, and Rand has been under harsh and embarrassing public scrutiny since the incident.

But this isn't all. Long before the leak became known, the Air Force was privately complaining that Rand wasn't thinking either, at least about things useful to its generals. Funding for Project Rand, the all-inclusive contract that the Air Force has with the organization, has been trimmed 30% over the past five years to the present annual level of \$11 million and further cuts are likely soon; this mirrors not only Air Force discontent, moderating now, but a general cutback in spending on all military research. This, too, bodes ill for Rand's future.

Excessively Wishful Thinking?

"Most people, the press, Congress, and the universities, now are locked into one way of thinking—that nuclear war can't happen," says Rand President Henry Rowen. "This set of mind is the key inhibitor to national security research. It may be excessively wishful."

Since it took over in 1967 (he plans to step . . . retime in the next 18 months), Rand has . . . ed deeply into nondefense work—notably in New York City, where some of its studies have been harshly criticized and where the bewildered think tankers find themselves stuck in no man's land between friends and enemies of Mayor John Lindsay, who brought Rand in. At the same time, there have been strong internal tensions at Rand's Santa Monica headquarters.

This has been chastening to Rand (short for Research and Development) and tends to obscure its varied achievements. Rand was founded in 1946 by the Air Force, then deeply concerned that the scientific teams that aided it in World War II would scatter in peacetime—just as the nuclear age and the Soviet threat made the development of new strategies and weapons systems very important.

There were only a few dozen researchers at first, but they were high-powered, including the likes of nuclear strategist and futurist Herman Kahn, who now heads his own think tank. Given wide latitude by the Air Force, they developed concepts that have shaped U.S. defense planning, production and strategy ever since—systems analysis, budget programming, first-strike vulnerability, second-strike capability, perpetual airborne alert and fail-safe.

Men Who Made Their Mark

Rand grew, attracting many men as employees or consultants who were later to make their mark elsewhere—Henry Kissinger, now the President's chief adviser on National Security, and ABC Chairman James Schlesinger;

Tolson \_\_\_\_\_  
Felt \_\_\_\_\_  
Rosen \_\_\_\_\_  
Mohr \_\_\_\_\_  
Bishop \_\_\_\_\_  
Miller, E.S. \_\_\_\_\_  
Callahan \_\_\_\_\_  
Casper \_\_\_\_\_  
Conrad \_\_\_\_\_  
Dalbey \_\_\_\_\_  
Cleveland \_\_\_\_\_  
Ponder \_\_\_\_\_  
Bates \_\_\_\_\_  
Tavel \_\_\_\_\_  
Walters \_\_\_\_\_  
Soyars \_\_\_\_\_  
Tele. Room \_\_\_\_\_  
Holmes \_\_\_\_\_  
Gandy \_\_\_\_\_

The Washington Post \_\_\_\_\_  
Times Herald \_\_\_\_\_  
The Washington Daily News \_\_\_\_\_  
The Evening Star (Washington) \_\_\_\_\_  
The Sunday Star (Washington) \_\_\_\_\_  
Daily News (New York) \_\_\_\_\_  
Sunday News (New York) \_\_\_\_\_  
New York Post \_\_\_\_\_  
The New York Times \_\_\_\_\_  
The Daily World \_\_\_\_\_  
The New Leader \_\_\_\_\_  
The Wall Street Journal \_\_\_\_\_  
The National Observer \_\_\_\_\_  
People's World \_\_\_\_\_

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Charles Zwick, former U.S. Budget Director; Alain Enthoven, who wielded great power in the Pentagon as Assistant Secretary of Defense under Robert McNamara; Charles Hitch, president of the University of California system, and a clutch of corporate chieftains.

Rand today has about 1,100 employees, draws on the talents of some 800 outside consultants and operates out of a sprawling seaside headquarters in Santa Monica, with branches in New York and Washington. It spends \$27.6 million a year, 76% of it on defense studies.

Rand's defense work has given it severe image problems; many still view it as a haven for crew-cut Dr. Strangeloves and other cold war warriors capable of anything in the name of national security. (Evidence of this is Rand's inability to quash two unfounded but persistent rumors—that it has been secretly asked by the Nixon administration to study how the 1972 presidential election might be canceled, and that a Rand study on salvaging the U.S. population remaining after nuclear attack advocated killing off the elderly.)

At the same time, Rand has been viewed from some quarters in Washington as too "liberal," even radical, and squishy-soft on Vietnam. Part of this stems from Rand studies on the Vietnamese conflict that have run directly counter to what the Defense Department and the White House wanted to hear at the time, casting grave doubt on the effectiveness of bombing in destroying enemy morale and blitzing him to the conference table, criticizing the use of conventional ground tactics in a guerrilla war and challenging the notion that Southeast Asia would collapse into turmoil if the U.S. pulled out.

#### Exasperated Analysts

The cold war warrior and radical labels exasperate Rand analysts, who insist that they are thinkers, period. "We tend to be what you'd expect," says Roger Levien, a bearded, middle-aged analyst who works in Washington. "Rand people are fairly straight, normal, the kind turned out by universities between 1956 and 1960. You don't find irrational people here. Youth today rejects the controlled mind, but we have to have a commitment to reason, not emotion."

The pay at Rand ranges from \$10,000 for a junior analyst to around \$30,000 for a valued senior man, not an extraordinary amount in re-

search circles. But Rand's unique freedom in research attracts and holds many good minds. Most other research organizations give their people specific problems and specific lists of questions to find answers for; in the past Rand analysts usually got to devise their own questions, too.

In 1952, for example, an Air Force colonel wrote Rand suggesting that it look into using overseas bases for the Strategic Air Command, on which the Air Force proposed to spend about \$3 billion. That was about all the initial guidance Rand got; it used its broad charter to investigate not only the economics of overseas bases but Russian nuclear capability, alternatives to foreign bases, the vulnerability of bases versus missile sites and many other factors.

Its recommendation that the U.S. rely on domestic, not overseas, bases shocked many Air Force officers. Beyond that, however, Rand's continuing inquiry into what looked like a simple money problem produced the whole concept of first-strike vulnerability and second-strike capability and led the Air Force into heavy reliance on ICBMs and the use of constant airborne alerts.

While working on one problem, Rand often gathers expertise that it uses on another. Asked to study the launching of missiles from shallow ocean waters, Rand had to study the effects of wave motion. It is currently using what it learned to study how New York's Jamaica Bay gets polluted and how to stop it.

Rand also supports or publishes a lot of research out of its own funds, some of it pretty esoteric. Just for the fun of it, Rand math whiz R. I. Helmbold made a statistical study of seven-game World Series; he concluded that if some investigative body had bothered to keep track of them since around the turn of the century, it might have gotten suspicious by now that maybe, just maybe, the owners and players were deliberately or unconsciously stretching out the fall classic to line their own pockets. There have been more long series than his model of probability calls for, he claims.

Other studies have dealt with nuances in Chinese political culture (the Chinese, it was determined, are attuned to "social distance" and thus could accept Stalin, a harsh, remote father figure, but not Khrushchev, a folksy potato-farmer type), the role of Berbers in Algerian politics, the supply of physicians in Arkansas and the terminal velocity of raindrops.

#### Specific Answers to Problems

There is much less of that now, for Rand suddenly is under terrific pressure to produce specific answers to practical problems—at the expense of basic research and raindrop studies. It shares some of these pressures with the other think tanks that serve the military.

Gradually, the public and Congress have shrunk away from the idea of protracted cold war, much less the Armageddon of all-out nuclear conflict. Military research budgets have been chopped severely, and just last year Congress demanded that the Pentagon prove the "relevance" of the research it commissioned. "That's like asking Nils Bohr (a pioneer in nuclear fission) to show the relevance of work that led to the A-bomb," snorts one disgusted Rand man.

On top of that, the Air Force lowered the boom recently on Rand in particular. As early as 1969, the generals were grumbling that Rand was doing too much intellectual daisy-plucking and not enough thinking about practical matters, like the applications of tactical air power. Air Force officials indicate the service felt Rand was getting too interested in nondefense work and too engaged in the basic research some defense work led into to pay attention to the nuts-and-bolts problems the Air Force wanted solved.

This wasn't the first tangle that Rand had had with the generals, some of whom fume privately about Rand's "intellectual arrogance."

But in the past Rand had successfully defended its research approach. This time it has at least partly surrendered to the generals.



## Less Independent Work

Mr. Rowen the Rand president, has ordered a severe cutback on independent research, thus choking off many an incipient RAND study in midflight, and on basic research that was spun off from military work but didn't seem likely to produce any quick practical benefits. Rand thinkers now spend much more of their time cogitating about what the Air Force wants than what they want, and many don't like it.

Even some Rand hands who have always worked on military programs are troubled by a shift in emphasis away from broad-gauge strategic studies—Rand's forte—to narrow tactical or hardware-oriented work. Edwin Paxson, a mathematician who has headed many military programs at Rand, believes that the advance of technology is already making Air Force strategic doctrine obsolete.

Mr. Paxson believes, for example, that new spy satellites will soon make it impossible for any country to launch a missile at another without immediate detection of the launch and flight direction. Knowing the U.S. can see everything the enemy does, what if an enemy decides to mount a clearly limited nuclear attack on selected military targets—not the all-out, city-busting rain of thermonuclear bombs that U.S. strategy now is based on? Shouldn't the U.S. develop a doctrine of limited nuclear response, immediately replying to his attack by going after preselected targets of the same kind in his country?

"Nobody in this business wants the cities busted," says Mr. Paxson. "This future technology (the improved satellites) opens up a new option, a new dimension of deterrence. Not enough thinking along these lines is being done. I hope the trend will reverse itself, so we can get into the larger issues that will be important 10 years from now."

## Buffeting in New York

If the going is rough in Santa Monica and Washington, it has not been any smoother in New York, where Rand has been buffeted hard. When researchers began work in 1968, they were immediately viewed as "the mayor's boys" by anti-Lindsay forces on the city council and "bureau of budget finks" by governmental department heads, says David Grossman, deputy budget director of the city; his department coordinates Rand work there.

Rand has its champions in New York, of course. Its study of housing and rent controls led to some reforms. George McGrath, head of the city's beleaguered department of corrections, also praises Rand for dramatizing the total inadequacy of health care for prisoners, leading to the hasty addition of four new clinics.

Fire Chief John T. O'Hagan also compliments Rand, though there was some huffiness at first ("They talked about statistical models and things like that, and when I asked how long it would be before they produced something one leader said: 'We're not a factory, we don't produce things,'""). In time, however, Rand did develop a computer-based method of scheduling fire companies that Chief O'Hagan

says has drastically reduced response time to alarms, leading to annual savings that are expected to run into the millions.

Rand also has introduced the department to "slippery water," which is ordinary hydrant water spiked with polymers that markedly reduce friction when the water passes through a hose. This almost doubles the amount that can be put on a fire in a given time. The department expects to begin using slippery water soon.

## Clutches of Critics

But for every Rand booster in Gotham you can find a clutch of critics. Some city councilmen and other officials find the cost of the research job—over \$7 million through last June 30—a huge sum for a city that is on its financial uppers.

There are also loud complaints that a lot of Rand's work has been an exercise in identifying problem, that any untrained man could detect by just keeping his eyes open or that the research is simply irrelevant. One Rand project, for example, showed that blacks who migrate to Northern cities are more likely to be graduates of urban high schools in the South than to be undereducated rural blacks. This was interesting but fairly useless information.

Rand's \$500,000 analysis of the New York police department has been a hundred-megaton bust. The police, says Rand analyst Bernard Cohen, wouldn't cooperate and mistrusted the "egghead" consultants. "Here I was, a little punk with a Ph.D.—they hated me," he declares. The police deny they wouldn't play ball and complain that some Rand people have been less than tactful, a charge with which some Rand hands agree.

"Just as the police view consultants with suspicion, some consultants view the police with derision," says one. "Some of our people in strategic positions were guilty of this."

## A Final Break Over Burglaries

The final break came when Rand submitted a report on the detective division that dwelt, among other things, on the gumshoes' rate of success in solving burglaries—a miniscule 2%. Howard Leary, then commissioner, dismissed Rand and said its work had produced nothing worthwhile.

City Council President Sanford Garelik (formerly chief inspector of the police department) agrees. He says Rand hasn't delivered "good value on the dollar," claims much of its work on the police amounted to piling up statistics on already-obvious problems and criticizes some of its proposals as unworkable.

The battering Rand has taken in both Washington and New York isn't readily apparent at its Santa Monica headquarters, which would pass for any college administration building except for the guards who check every staffer in and out with walkie-talkies, making sure they put in a 40-hour week. Analysts still play blind chess at lunch, chat amiably on the sun-warmed patio or attend presentations ranging from a seminar on Congress' role in the

debate to a photographic essay on the sculpture of Gustav Vigeland.

But there is a deep undercurrent of tension. President Rowen has fired some researchers and others have left, pessimistic about Rand's future, to join other think tanks. Criticism is heard from non-Rand members of the research establishment, who feel that Rand has lost its keenness. "A good deal of its intellectual vitality is gone," says one analyst who recently resigned. "People are being forced to do work they would prefer not to do. Before, there was enough money to allow researchers to satisfy their own intellectual curiosity while satisfying the client's needs too. No more."

Mr. Rowen concedes that Rand may have slipped a bit and blames "the inevitable aging process." He apparently is hoping that exposure to new problems will help it spring back; by 1975, he aims to have half of Rand's budget

in nondefense work, which may be spun off into a separate corporation. Besides its New York project, the research organization is currently involved in cable TV studies, planning for a proposed National Educational Institute, and other nondefense jobs.

It is very unlikely, though, that the military part of Rand's business will ever dry up and blow away. After 25 years, Rand has become a nearly irreplaceable repository of knowledge.

Rand's other edge is that its status as an independent organization allows it to press views upon the military that run counter to conventional wisdom; indeed, that's a key part of its job. "We've yet to run into a group of colonels or generals willing to say some of the things we've said," wryly observes Rand's Mr. Tanham.